HARRY BINGHAM MEMORIAL

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EDGAR ALDRICH
ALBERT S. BATCHELLOR
JOHN M. MITCHELL

LITERARY EXECUTORS
OF
HARRY BINGHAM

MEMORIAL

OF

HON. HARRY BINGHAM, LL.D.

LAWYER, LEGISLATOR, AUTHOR

EDITED BY

HENRY HARRISON METCALF

UNDER THE DIRECTION OF

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LITERARY EXECUTORS

PRIVATELY PRINTED AND GRATUITOUSLY ISSUED

CONCORD, N. H., 1910

F39
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SEP 19 1916

INTRODUCTION.

This compilation of the writings and speeches of Harry Bingham has been prepared and published in pursuance of a provision of his will, which directed that, in a certain event, Edgar Aldrich, Albert S. Batchellor and John M. Mitchell should prepare and publish a memorial volume containing such parts, or the whole, of such of his legal arguments and other speeches and addresses as they might select, the volume to be printed and brought out under their direction.

It is our understanding that Mr. Bingham intended a gratuitous distribution. It is also our understanding that he intended the work as a token of remembrance to his friends and such as might reasonably be expected to be interested in his career, without regard to the question whether they had been for or against the doctrines for which he stood. But we have not overlooked the fact that we owe a duty under this trust to the great libraries whose mission it is to assemble all the available works of this class for the use of the public, and we have set apart what seemed to be an adequate number of volumes for that purpose.

Harry Bingham's decease occurred September 12, 1900. He had reached the age of almost four score years. His labors at the bar were unremitting in a period of professional activity covering more than fifty years. His habits of research were systematic and exhaustive. He was masterful in argument. He was resourceful in controversy. He was conscientious and consistent in adherence to principle.

The results of his researches and discussions relating to the application and contest of legal principles included a vast and diversified range. In this field, as might be expected, his writings are in a large measure scattered or lost beyond recovery. His contributions to the far-reaching railroad litigation, which

occupied the attention of the courts, the Legislature and the people of the state, from 1870 to 1890, and the parts that he acted in other great causes have been merged in results which involved the efforts of many minds in the direction of corporate and constitutional development and the permanent establishment of improved systems of statute and case law. He was a conspicuous force in a period in the jurisprudence of the state which was so important that it must be regarded as epochal.

The material for the presentation of his part in what may be termed the structural features of this important consummation can now be presented only in unsatisfactory fragments. Nothing short of a complete and systematic collection of what he produced, in research and argument, arranged and read in its logical connection with the contributions of others, would adequately present the profound influence that he exerted upon men and measures, upon courts and Legislatures, upon the development of the law, upon the ascertainment and application of principles governing the relations of corporations to each other, to the state, and to the people. A collection corresponding in any appreciable degree with the results of his labor and achievement in the legal forum would be impossible and has not been attempted. He was twenty times a member of the New Hampshire Legislature. He was a delegate to the Philadelphia Peace Convention of 1866. He was a delegate to the Democratic National Conventions of 1872, 1880, 1884 and 1892, and a member of the committee on resolutions at each of those conventions. And it is needless to say that he exercised an important influence in the councils of his party and in the formal declarations of its policies. Mr. Bingham's exposition of his opinions on political questions dominant at particular times in the long period in which he was a conspicuous and potential factor in public affairs, though incomplete, are preserved to an extent which permits of an ascertainment of his attitude and convictions in respect to the larger problems of his day. He was courageous, outspoken and uncompromising in the declaration of his views as to public men, and public policies. His letters, his contributions to the press, the reports of his speeches in the Legislature and in the Constitutional Convention of 1876, his more formal essays and

the arguments upon which he relied for the vindication of his principles, afford data which will permit of no mistake as to his position on political issues.

The transcripts from his political writings present the complete text of the original when it appears to be essential, and extracts have been employed when they would answer the purpose of a fair presentation of the author's statement or argument.

Mr. Bingham's essays and formal addresses have with few exceptions been reproduced in full, and it will be observed that in his later years he departed from the treatment of topics technically related to the law and his profession, and indulged in the discussion of the broader questions of history, sociology, international politics and religion. Thus, as he advanced in years, he disclosed a widening rather than a narrowing of the field of intellectual activity.

The editorial arrangement of the book and its preparation for publication was committed to Mr. Henry H. Metcalf, whose special fitness for the task will be recognized, as he was a lifelong friend, neighbor, and political coadjutor of Mr. Bingham.

This volume is submitted in the expectation that it will prove to be a contribution of interest to Mr. Bingham's contemporaries and of value to those who hereafter engage in the investigation of events of the half century between 1840 and 1890.

Littleton, New Hampshire, July 17, 1910.

EDGAR ALDRICH,
ALBERT S. BATCHELLOR,
JOHN M. MITCHELL.

EDITOR'S NOTE.

It is but just and fitting that, in the presentation of this memorial volume, due credit be given the Hon. Albert S. Batchellor, for valuable assistance rendered in the preparation of the work. Through his careful research and persevering labor, in securing and arranging in chronological order, the great mass of material utilized, the editorial work has not only been greatly lightened, but unquestionably rendered altogether more complete. While this acknowledgement of Mr. Batchellor's service is justly due and cheerfully made, it should be added that his associate literary executors — Judge Aldrich and Mr. Mitchell — have been equally desirous with himself, and no less earnestly insistent, that the completed work should be a thoroughly fitting memorial of the great lawyer, true patriot and faithful public servant whose life and labor made a deep and lasting impression upon the jurisprudence of New Hampshire.

THE EDITOR.

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Harry Bingham

At 60 years.

HARRY BINGHAM.

A BIOGRAPHICAL SKETCH.

Harry Bingham, like many other eminent lawyers and distinguished citizens of New Hampshire, was a native of the state of Vermont.* Born in the town of Concord, Essex County, March 30, 1821, he was the third son of Warner and Lucy (Wheeler) Bingham. Two brothers, older than himself, were John, a farmer, who died in Wisconsin in 1849, and Lorenzo, a merchant of Lower Waterford, Vt., who passed away seven years later. Lucy A., a sister next younger than Harry, was the wife of C. S. S. Hill, a California merchant. Two younger brothers were Hon. George A. Bingham of Littleton and Hon. Edward F. Bingham of Ohio, subsequently chief justice of the Supreme Court of the District of Columbia.† A sister, still younger, was Edith C., wife of Ira H. Ballou, of Ira H. Ballou & Co., wholesale produce dealers of South Market Street, Boston.

But, notwithstanding the fact of his Vermont birth, Mr. Bingham was really of New Hampshire origin, inasmuch as his father,

*Among Vermont born men who have attained prominence at the bar in New Hampshire and become otherwise distinguished in public affairs may be named, aside from Harry Bingham and his brother, George A., Edmund Burke, Harry Hibbard, Henry A. Bellows, William L. Foster, William Heywood, Jacob Benton, Ellery A. Hibbard, Albert S. Wait, Ossian Ray, Henry B. Atherton, Charles F. Stone, William H. Mitchell, Frank S. Streeter and Daniel C. and James W. Remick.

†George Azro, eldest brother of Harry Bingham, was born in Concord, Vt., April 25, 1826, and died at Littleton, January 22, 1895. He was educated in Vermont schools and academies, studied law and was admitted to the bar in 1848. He practised four years at Lyndon, Vt., removing to Littleton in 1852, where he continued until death. He was twice elected to the House of Representatives in the State Legislature, and twice to the Senate. He was a delegate to the Democratic National Convention in 1860, and the Democratic candidate for Congress in the old Third District in 1880. He was appointed an associate justice of the Supreme Court in 1876, serving until October, 1880, and was again appointed in December, 1884, continuing until March, 1891. He had served as a member of the Littleton Board of Education, as a trustee of

Warner Bingham, had removed in early childhood from Cornish, N. H., where he was born in 1789, to Concord, Vt., with his parents, who were among the early settlers of the latter town; while his mother was a daughter of the Granite State—a native of the town of Chesterfield. Warner Bingham was a substantial farmer, a man of sterling character and strong influence in the community. A Democrat in politics, he was with the minority in town as well as state; but the people of Essex County demonstrated their esteem for his character and confidence in his ability by electing him as their representative in the State Senate in 1842 and 1843, and as a judge of the county court in 1844. His wife, Lucy Wheeler, daughter of John and Lucy (Holmes) Wheeler, who had also removed to Concord, was a woman of rare mental endowments and remarkable strength of character, from whom her son, Harry, inherited many of his characteristics. She died in the autumn of 1839 and he afterward married Laura Rankin of Danville, Vt., by whom he had three more children—two sons and a daughter. He died in Bethlehem, N. H., where he had removed some years previously, February 12, 1872.

The early life of Harry Bingham was passed in about the same manner as that of most sons of New England farmers of

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the State Normal School, as a director of the Littleton National Bank, and president of the Littleton Savings Bank.

Edward Franklin Bingham was born in Concord, Vt., August 13, 1828, and died at Union, W. Va., September 3, 1907. He was educated in the public schools, at Peacham (Vt.) Academy, and Marietta College, Ohio. He read law with Joseph Miller at Chilicothe, O., and with his brother, Harry, being with the latter at Littleton from May, 1848, till September, 1849. He was admitted to the bar in Ohio, in 1850, and located in practice at McArthur, Vinton County, where he continued eleven years. He was prosecuting attorney for Vinton County for three terms, and served in the State Legislature in 1856 and 1857. Removing to Columbus, he served as city solicitor from 1867 till 1871, and was also a member of the Board of Education from 1863 to 1868. In the latter year he was chairman of the Ohio Democratic State Committee, and a delegate to the Democratic National Convention, as he also had been in 1860. He was again a delegate in the St. Louis convention of 1876. In 1873 he was chosen a judge of the Court of Common Pleas for the Fifth Judicial District of Ohio, and reëlected, serving till 1887, when he was appointed by President Cleveland chief justice of the Supreme Court of the District of Columbia, which position he held until his resignation in 1903. It is safe to say that no family in the country has ever produced three brothers equal in eminence and ability, as members of the legal profession, to Harry, George A. and Edward F. Bingham.

that day, in moderate circumstances, except that he developed a strong inclination for study and made the most of the limited advantages of the district school. At an early age he determined to secure a college education; and he had so diligently applied himself to his studies during the brief terms of the common school, with a few weeks at select school on one or two occasions, that when he was seventeen years of age it required but a year's academic training to fit him for entrance at Dartmouth, which he secured at the well-known Lyndon, Vt., Academy. Entering college with the class graduating in 1843,* he applied himself to the solid work laid out for the student in those days, when intellectual training was the main thing sought, and "athletic culture" was no essential part of the curriculum. It may be added that his college life was characterized rather by that substantial attainment which furnished the groundwork for success in his future professional career, than that brilliant leadership in the class room, which seldom materializes in future intellectual triumphs. By the ordinary tests of scholarship his class standing was good; while among classmates he won regard for that honesty, sincerity, contempt for hypocrisy and sham and that unswerving courage of conviction which characterized his entire after life. Dartmouth College was at this time under the administration of President Nathan Lord, and the strong character and sterling precepts of that eminent and virile educator, theologian and publicist, whose impress upon the minds of the young men generally who came under his instruction was no less marked than that of any of his compeers or successors, became a vital and lasting force in the life of Mr. Bingham.

Immediately after graduation from college, having previously determined to enter the legal profession, he commenced the study of law in his native town, taking books for that purpose from the

*Among Mr. Bingham's associates in the class of 1843, at Dartmouth, were the late James O. Adams, Secretary of the State Board of Agriculture, Col. John B. Clarke, of the Manchester *Mirror*, Augustus O. Brewster and Robert I. Burbank, well known Boston lawyers; Col. Francis S. Fiske of the Second N. H. Vols.; Judge Thomas W. Freelon of San Francisco; the late Congressman Daniel W. Gooch of Massachusetts; Brig.-Gen. Joshua J. Guppey of Wisconsin; Hon. Lyman D. Stevens of Concord, and three sons of President Lord—Henry C., Samuel A., and William H., who all became prominent in professional life.

office of David Hibbard, Esq., father of Hon. Harry Hibbard, who was a resident of that town. He subsequently pursued his studies for some time in the office of George C. and Edward Cahoon at Lyndon, Vt., and completed the same with Harry Hibbard at Bath.

During the time of his college course, as well as his preparatory training and his subsequent professional study, Mr. Bingham was engaged winters in the customary avocation of the ambitious young New Englander of that generation who had his own way to make in the world—teaching school. He commenced this work, in fact, in the winter of his sixteenth year, and continued each winter, until his admission to the bar, teaching with success in his native town of Concord, in Burke, East St. Johnsbury, Woodstock, Waterford, Wells River and other places.

He was admitted to the bar at Lancaster at the May term of court, in 1846, after a rigorous examination, having then just passed his twenty-fifth birthday. Littleton, then as now a leading northern New Hampshire town, was regarded as a promising professional field. Moreover the leading Democrats of the town were on the lookout for a lawyer of their own political faith, and had applied to Harry Hibbard, then a recognized leader of the party in that section, who had already been honored with election as speaker of the State House of Representatives, to recommend some promising Democratic lawyer of ability and integrity to settle in the town. Mr. Hibbard, aware as he was of Mr. Bingham's talent and ability and the ample equipment which he possessed, notwithstanding his comparative youth, and knowing very well from his acquaintance with the town and its people what manner of man was wanted, unhesitatingly recommended him to the Littleton inquirers as just the man of whom they were in search; and so it came about that he located there, to the ultimate complete satisfaction of those who were looking for a Democratic lawyer of character and ability, if not to his own personal advantage. As for the latter it is sufficient to say that he was himself content with his situation and environment, and for more than half a century gave the best that was in him to his profession, his party, the community and the state.

It was in September, 1846, that Mr. Bingham took up his resi-

dence in Littleton and opened an office for the practice of his profession. Unlike some young men, upon admission to the bar he did not sit down in idleness, awaiting the arrival of clients, but continued his studies, extending his researches into every department of legal science, familiarizing himself thoroughly with the principles of law, in the abstract and in their application to cases, as set forth in the reported decisions, with the forms of practice and the rules of procedure, so that, when called upon to grapple with any case arising, he was well equipped for the occasion and ready to carry it through to a successful result, if, under the circumstances, success was fairly attainable. So thorough and complete was his preparation, secured in the early years of his practice, when business was not always pressing and opportunity for study and consideration was presented, that it was said by the late Chief Justice Perley, toward the close of the life of that eminent jurist, that there was no other man at the bar, in New Hampshire, who when suddenly called upon to deal with an intricate question of law, or to sustain a position with no authorities in reach, could so readily master the situation, from his own resources, upon the basis of principle and analogy, as could Mr. Bingham.

When Mr. Bingham commenced practice in Littleton, the Grafton County bar, as well as that of Coös with which he was also brought into close relationship, was remarkable for its strength. Its membership included such men as Leonard Wilcox of Orford, Josiah Quincy of Rumney, Jonathan Kittredge of Canaan, and Ira Goodall of Bath, then in the fullness of their power. Andrew S. Woods, of Bath, had gone upon the bench, but Harry Hibbard of that town had but fairly entered upon his brilliant career. Charles R. Morrison was in practice at Haverhill, and Jonathan E. Sargent at Canaan, soon removing to Wentworth. In Littleton, as his chief competitor he found the late Chief Justice Henry A. Bellows, then in full practice, while in Coös County, John S. Wells, then at Lancaster, the most brilliant orator, save Franklin Pierce, known in the state in the middle of the last century, stood at the front, with Hiram A. Fletcher, William Burns and Jacob Benton well settled in practice. Associated with and pitted against such men as these, Mr.

Bingham took rank with the foremost at a very early period in his professional career. Without noting the details of his progress as a lawyer it is sufficient to say that probably no lawyer in the state was engaged in the trial of so many causes, during the fifty years of his active practice at the bar, as was Mr. Bingham, and certainly no one was more generally successful; nor has there ever been a New Hampshire lawyer whose advice was more extensively sought or more safely followed, whether by attorney or client.

There was scarcely an important case tried in Grafton County for a period of forty years at least, in which Mr. Bingham was not engaged on one side or the other as attorney or counsel; while in Coös his services were in nearly as great demand. His practice extended, however, into all parts of the state, quite largely into Vermont, and even into New York, and into the federal as well as the state courts. There were few lawyers of prominence in New Hampshire in the period between 1855 and 1895, whose lot it had not been at some time to encounter Mr. Bingham as an antagonist at the bar, and no man thus placed in regard to him ever failed thereafter to entertain a most profound respect for his abilities. Some ten years after commencing practice, while yet a young man, he met the Hon. Daniel Clark, then in the meridian of his power and the acknowledged head of the Hillsborough County bar, in a strongly contested case in the court of that county, and not only won a victory for his client, but proved his ability to contend successfully with the ablest and most experienced among the lawyers of the state.

A review of the important cases in the trial of which Mr. Bingham was engaged, on the one side or the other, in the course of his career, would transcend the proper limits of this sketch, and would be, moreover, entirely superfluous, since it would be of no particular interest to the non-professional reader, while the lawyer will readily find the record thereof in the New Hampshire reports, covering a period of fifty years, and constituting no inconsiderable portion thereof. The more important of them all, it may be noted, were the celebrated Concord Railroad cases, in all of which he was prominently engaged, involving questions of vital interest and importance, the determination of which

settled the railroad policy of the state, so far as the courts are concerned at least.

While his most important work was done in civil causes, his services were frequently in demand in criminal trials. He was connected with most of the capital cases heard in his day, in his own county, appearing in each for the defense, except in the case of *State* v. *Mills,* for the murder of Maxwell at Franconia, in which he appeared for the state. He defended John Scannell of Bethlehem, tried for the murder of his wife; Moses B. Sawyer, for the murder of Mrs. John Emerson of Piermont; Martin V. Dickey for the murder of Eastman at Ashland, and Williams and Steere for the murder of Orrin Steere at Warren, and with a successful outcome in each case.

During the greater portion of his life in Littleton Mr. Bingham was the regularly retained counsel for the town, maintaining and defending its interests in whatever legal controversies it became engaged, questions of no small financial importance frequently being involved, and his services in this connection were appreciated as most valuable by all who had the interests of the town at heart. He was also leading counsel for President Bartlett of Dartmouth College, during the progress of the investigation instituted by the New York Alumni Association represented by Judge Fullerton, Sanford H. Steele and Asa W. Tenney, and in which contest he proved himself the peer of any of his eminent antagonists.

Mr. Bingham was a thorough master of every branch of the law involved in the ordinary practice of our New England courts; and in this respect his location in what may be classed as a country region, instead of a great metropolis, where the practice is to a great extent specialized, which some of his friends and admirers deplored because of the fact that it deprived him of opportunity for national distinction in connection with litigation of vast importance, may have proved advantageous, on the whole, in insuring a fuller and broader development of his powers than would have resulted had his practice covered a less general field. Whenever he took up a case, whatever the magnitude of the interests involved or the financial ability of his client, he gave it unstinted care and attention, laboring with un-

remitting zeal for a successful outcome. As an advocate he was not eloquent, in the ordinary sense of the term, but he was remarkably strong and effective. His thorough knowledge of the law, his complete mastery of the facts in the case, his manifest devotion to the cause of his client, his concise, comprehensive, direct and forceful manner of statement, carried conviction to the jury where pathetic appeals and finely rounded periods would have had no effect. In power of analysis and clearness of reasoning he was unsurpassed, and court as well as jury never failed to accord him that most careful as well as respectful attention which is generally essential as well as conducive to conviction. In manner of speech and habit of thought, he is said by those familiar with the characteristics of both to have closely resembled that most distinguished lawyer, as well as statesman, of his day—Daniel Webster—as well as in his commanding personality, his imposing figure, striking features and large, deep-set penetrating eyes.

During the first six years of his professional career, Mr. Bingham was without a partner, but in July, 1852, his brother, George Azro, who had peen practising for a time at Lyndon, Vt., came to Littleton, and the two formed a co-partnership under the firm name of H. & G. A. Bingham, which continued until 1859, when it was merged in the firm of Woods & Binghams, Ex-Chief Justice Woods and his son, Edward, of Bath, associating themselves with the Binghams, with offices in both Bath and Littleton. This arrangement continued until 1862, when the firm of H. & G. A. Bingham was reëstablished, and maintained, in fact till 1870, but nominally till 1874, when it was formally dissolved, each member opening an independent office. In this latter year Mr. Bingham formed a partnership with John M. Mitchell, now of Concord, who had completed his legal studies in the office. In July, 1879, Albert S. Batchellor, who had also pursued his studies with the firm, was admitted to the partnership, the firm name being changed to Bingham, Mitchell and Batchellor. Two years later, William H. Mitchell, a brother of John M., another student of the office, also became one of the firm, subsequently known as Bingham, Mitchells and Batchellor. In 1881, however, John M. Mitchell had removed to Concord,

where an office was opened under the firm name of Bingham & Mitchell, Mr. Bingham spending some time in both places for several years. John M. Mitchell withdrew, after a time, from the Littleton firm, but Mr. Bingham's name was connected with each up to the time of his death, although he had some time previously ceased to take any active part in the ordinary transactions of either.

While no lawyer in New Hampshire was ever more conscientiously devoted to his profession than Mr. Bingham, or less a politician in the ordinary sense of the term, and while he rarely held any public office aside from service in the Legislature of the state, and in positions of party leadership, few men in the state have ever occupied so prominent a position in political life as he, or so thoroughly commanded the admiration, confidence and respect of the people in that relation. A Democrat from early youth, of the uncompromising Jeffersonian type, his devotion to Democratic principles, and the Democratic party in support of those principles, grew with his growth and strengthened with his strength, until his political convictions, like his profession itself, became, as it were, a part of his very being. This was the result, undoubtedly, of his legal study, which had been broad and philosophical, rather than limited and technical in character. He had studied law in its relation to, and as the basis of, human government, and his investigations familiarized him with the history of government in all ages. Particularly was he conversant with the growth of the English common law, which is the framework of our legal system, and with the attendant and correlative development of constitutional liberty.

When he settled in Littleton he was the only Democratic lawyer in town, and naturally became active and prominent in the councils of his party at an early day. The Whig party was then in control of town affairs; but with the general decadence of that organization in the country at large, the Littleton Democracy, strengthened by Mr. Bingham's wise counsels and tireless personal efforts, gradually came into the ascendency, carrying the town, first, in 1852, and continuing in control for a long series of years. A Democratic newspaper was established in that year, and to its columns, editorially and otherwise, he con-

tributed quite extensively, for several years. It was not, however, until 1861, that Mr. Bingham became a representative from his town in the General Court. The Civil War had then commenced in earnest, and then, as throughout its continuance, political excitement ran high and party spirit was intense, on account of conflicting views as to the responsibility for the contest and the manner in which it should be conducted on the part of the federal government. Although a new member Mr. Bingham took rank, at once, with the ablest in the House, and was accorded, from the start, the leadership on the Democratic side—a position which he held, by universal recognition, through his entire legislative experience. He was reëlected to the House in 1862, when he was the Democratic candidate for speaker, also in 1863, 1864, 1865, 1868, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1881, 1889 and 1891. For two terms, covering the period from 1883 and 1887, he represented the Second or Grafton District in the State Senate. His legislative career covered a longer period of service than that of any other man of his time in the state; while his influence upon the work of legislation far surpassed that of any of his compeers. On the floor of the House, and in the judiciary committee, of which he was a member each year of his service, and chairman in 1871 and 1874, in which years the Democrats were in control of that body, he always occupied a leading position, and that not only as respecting his own party, for Republicans as well as Democrats had come to place the fullest confidence in his judgment and sagacity in all matters not pertaining to politics, and in all legislation not of partisan import or bearing he exerted greater influence than any other member of either party.

He had many characteristics in common with that other able and distinguished lawyer and legislator, with whom he served many years in the House, and between whom and himself the most cordial and friendly relations were always maintained—Gen. Gilman Marston of Exeter. Like General Marston, he never engaged in the discussion of trifling questions, and took no interest in the petty measures that too often occupied the attention of the House. He never advocated a measure which he did not believe to be just, and conducive to the welfare of the

state and the people; and when he spoke he never failed to command the attention of all, for he spoke squarely to the point and with the earnestness of absolute conviction, seldom failing to impress his hearers with the soundness of his views and the strength of his position.

With the manipulation of machine politics, as ordinarily understood, Mr. Bingham had nothing to do, either for his own advancement or that of any other man. His political services were always rendered in a straightforward manner, from devotion to principle and for the good of the cause alone. Indeed, his utter self abnegation was often the occasion of deep regret on the part of his friends. His party, however, did not fail to manifest, repeatedly, its appreciation of his sterling worth and commanding abilities. He received the Democratic nomination for representative in Congress from his district (the old Third) in 1865 and again in 1867, his successful Republican opponents having been, respectively, James W. Patterson and Jacob Benton. He was the nominee of the Democratic party in the Legislature, for United States senator, in 1870 against Aaron H. Cragin; in 1872 against Bainbridge Wadleigh; in 1879 against Henry W. Blair and again in 1885; against Austin F. Pike in 1883, and against William E. Chandler in 1887 and 1889. As no man of his time had served his party, his town and the state so frequently and so ably in the Legislature, so no man in the state had been so often honored by his party with its nomination for the highest office which that body has at its disposal. Nor is it too much to add that thousands of independent citizens have regretted the arbitrary partisan considerations that deprived the state and nation of his services in that greatest legislative body in the country and the world—the Senate of the United States —where his commanding legal ability, intellectual power and comprehensive knowledge of the history and science of government would shortly have given him rank with its foremost members. In these respects, and in all the essential elements of real statesmanship he was the peer of Trumbull, Edmunds, Bayard, Thurman, Carpenter, Hendricks, Conkling or Hoar, and had he been called, through the mutations of party politics, to represent New Hampshire in that exalted body, the influence of the Granite

State would have been felt, through his incumbency and service, as in former days, surpassing that of many a larger state.

Mr. Bingham held no appointive office, state or national, except that of special agent of the Treasury Department, for a time under the administration of President Johnson. He was nominated by Governor Weston, in 1874, for chief justice of the Superior Court of Judicature created by the Legislature when the judiciary system of the state was remodelled by the Legislature that year, but the nomination failed to secure the requisite support in the executive council, through factional hostility controlling the action of certain members, and the appointment finally went to the Hon. Edmund L. Cushing of Charlestown. Subsequently he declined an appointment as associate justice, tendered by Governor Head in 1880. Aside from the positions previously mentioned, he held no public office whatever, except that of member of the board of education in Union School District of Littleton for the first three years after its organization, that of quartermaster of the Thirty-Second Regiment in the old state militia in 1849, and as aide-de-camp on the brigade staff of Gen. E. O. Kenney in 1851.

In the councils of the Democratic party of New Hampshire, in conventions and committees, he was prominent for forty years, because his services in such connection were sought and commanded. While seldom heard upon the stump, it being a field of effort decidedly foreign to his taste or inclination, whenever he did appear before the people to advocate the cause of his party or the claims of its candidates, he spoke with the plainness of diction, the logical power and the straightforward earnestness that carried conviction. He was almost invariably a delegate from his town in the Democratic State Convention, and a member of its committee on resolutions, his judgment largely controlling in the shaping of the platform when any question arose. He served as a member of the Democratic State Committee many years. He was a delegate from New Hampshire to the famous Union or Peace Convention in Philadelphia, during the administration of President Johnson. He was a member of the National Democratic Convention in New York, in 1868, which nominated Horatio Seymour for president, serving as an alternate

in the place of Hon. Josiah Minot, then the New Hampshire member of the National Democratic Committee, to which place he was himself at that time chosen for the next four years. He was a delegate to the Baltimore convention in 1872, which nominated Horace Greeley; to the Cincinnati convention which nominated General Hancock, in 1880, and to the Chicago conventions nominating Grover Cleveland in 1884 and 1892. In all these national conventions he was the New Hampshire member of the committee on resolutions. He presided over the regular state conventions of his party in 1870 and 1878, and the delegate and electoral conventions in 1872 and 1896. A prominent feature of his address on assuming the chair in the latter convention was an able and earnest presentation of the "sound currency" or gold standard doctrine to which the Democracy of the East was so devotedly attached, believing its maintenance fundamentally essential to the national welfare. When, therefore, the national convention of the party, at Chicago, soon after, adopted a platform in direct contravention of this doctrine, in compliance with the preponderating demands of the West and South, Mr. Bingham with thousands of other Democrats, not only in the East but in all sections, was sorely disappointed and deeply grieved, regarding such action as inconsistent and in contravention of genuine Democratic principles. He had never before broken with his party, whatever his dissatisfaction with its course in some directions; but when, later, the state convention, against his earnest protest and that of prominent associates, specifically endorsed the platform adopted by the national convention, he, with other life-long Democrats, withdrew from the convention, not in anger but in sorrow, and was afterwards identified with the so-called "gold" Democratic movement which organized the convention at Indianapolis, that nominated Generals John M. Palmer and Simon B. Buckner for president and vice president on a gold standard platform. Mr. Bingham presided at a mass convention in Manchester ratifying this ticket and platform and headed the Palmer and Buckner electoral ticket in this state. He had also been one of the Democratic nominees for presidential elector in 1864 and 1888.

Mr. Bingham was a member of the Kappa Kappa Kappa

Greek letter society at Dartmouth College, of the New Hampshire Historical Society, the Pilgrim Society, the New Hampshire Bar Association and the American Bar Association. He was also president of the Grafton and Coös County Bar Association from 1893 till his decease. He was for a time a director of the Boston, Concord and Montreal Railroad. In 1880 he received from Dartmouth College the honorary degree of Doctor of Laws.

In his early life at college Mr. Bingham's associates gave him the title or appellation of "Judge," and through all his life he continued to be more frequently addressed by that name than any other. Indeed, it was rarely that any one—friend, acquaintance or comparative stranger—aware of his identity, ever accosted him in any other way. Although he had two brothers who were judges in important courts, were the three ever together, in a room full of people, and the name "Judge Bingham" called, nobody would have thought of any other than Harry Bingham as being addressed. And his presence, bearing and manner confirmed the fitness of the appellation. Eminently fitted as he was for service in the National Senate, he would have been no less an ornament to the bench of the Supreme Court of the United States, and a power for justice in that august tribunal, had it been his lot to be called to such service.

In his later years he devoted much attention and labor to constructive literature and was the author of many addresses and essays upon various topics covering a wide range of thought and investigation. It is unnecessary to repeat the titles or subjects considered, in this connection, since the various productions, so far as they have been found available, are presented in full in the following pages of this volume, along with such other of his writings as have been deemed appropriate for preservation. It is to be regretted that there is practically no record of many of his best and strongest intellectual efforts. A large proportion of his speeches in the Legislature, the constitutional convention, and elsewhere, as well as of his legal arguments, addresses to the jury, etc., were entirely oral, never having been reduced to writing, and no stenographic report of the same ever having been made. Indeed, some of his most powerful and effective speeches, in the argument of questions arising during the prog-

ress of trials at law, and especially in legislative debate were necessarily entirely unpremeditated, made upon the spur of the moment, yet never failing to disclose the wealth and power of the resources at his command. Of his final argument before the Supreme Court, in the celebrated case of the *State* v. *Jewett,* in January, 1901, involving the right or duty of the clerk of the House of Representatives in making up the roll of that body as regarded the names of the so-called "if-entitled" members, there is absolutely no report preserved, beyond the most meager newspaper outline.

Mr. Bingham was unmarried, and, naturally, did not enter so generally into the pleasures of social life, or form so many of the ties of acquaintanceship and the more intimate relations growing out of the same, as might otherwise have been the case. Yet he was in no sense a recluse, nor of the reserved, uncompanionable spirit which some may have imagined. However he may have at first impressed the stranger, he was known by his friends, and found by any with whom he came in close contact, to be one of the most approachable of men, genial, frank, open-hearted, companionable, and thoroughly democratic, in the full sense of the term. He obtruded his opinions or advice upon no one, but when the same were sought, in any proper direction, they were freely given, and found, almost invariably, of more than ordinary value, whether bearing upon matters of private interest or public concern. No man ever had the welfare of the community in which he lived more thoroughly at heart, or took a deeper interest in all measures calculated to promote its material prosperity, educational progress and moral uplift.

Reared in the country, inured to farm labor in youth, and spending his entire life practically in the midst of an agricultural people, his clientele being composed largely of the farmers of his own and surrounding towns, the interests of agriculture ever found in him a strong and ready champion. Indeed, for more than forty years he had been himself the owner of a fine farm in the town of Bethlehem, some three miles out from Littleton village, and to the management and improvement of which he directed his own attention in such leisure time as he found at command. Toward the close of his life he became interested in

orange growing in Florida, where he spent some time in the late winter and early spring for several years, and where he became the owner of considerable real estate, including a fine orange grove.

While connected with no religious organization or society, and rarely attending church services, Mr. Bingham was by no means an irreligious man. On the contrary he had a profound reverence for the general doctrines and principles of Christianity, and a strong and pronounced regard for the institutions based thereon, as established by our New England ancestry, divested of the superstitions incident to the time in which they originated. His broad tolerance in religious matters, however, was always strikingly manifest. Forms and professions were of little account in his estimation. Conduct and character counted more with him than creed or formula; but he recognized the importance of some fixed religious conviction as essential to good citizenship and fully rounded manhood, and he impressed this sentiment as forcibly upon the minds of students* in his office, and friends with whom he associated, as he did that of regard for the sanctions of law or the demands of patriotism. He contributed generously, according to his means, toward the maintenance of religious worship in the community in which he lived, all denominations receiving material assistance at his hands. Indeed, he was an early and liberal promoter of the enterprise through which a Catholic church was erected in Littleton, recognizing the value of church influence among all classes in promoting the best interests of the community and the welfare of the state and nation. While, as has been said, he cared little personally for forms and creeds, his individual inclination, so far as manifest, led him to prefer the service of the English, or Protestant Episcopal church, doubtless principally from the fact that, during all the exciting periods of political agitation in this country, the clergy of that denomination had more completely refrained from any active part therein than those of any other Protestant sect.

*Among the many men who enjoyed the benefit of Mr. Bingham's instruction as students in his office were his brother, Edward F. Bingham, Samuel B. Page, late of Woodsville, Clinton Rowell, of St. Louis, Hons. John M. and William H. Mitchell, and Albert S. Batchellor, all subsequently his partners; Dexter D. Dow, clerk of the court for Grafton County, Burns P. Hodgman, clerk of the United States District Court, and the late William P. Buckley of Lancaster.

Mr. Bingham had retired from active practice a year or two before his decease, and had been in failing physical health for some months, but had been confined to the house only about six weeks. He retained his mental faculties and interest in his surroundings to the last, passing away quietly at 2:30 p. m. on Wednesday, September 12, 1900, the immediate cause of death being given by the physicians in attendance as mitral lesion of the heart.

The funeral was held on Friday, 14th. The following account of the same is from the Littleton *Republic-Journal* of September 21:

"At noon of a cloudless day all that was mortal of Harry Bingham was interred in the Glenwood Cemetery.

"The services, which were public, were held in the Grand Opera House, last Friday morning, and were conducted with simplicity, as befitted the closed career of a man who did all things with unostentatiousness.

"The rector of All Souls' Church officiated, using the impressive and beautiful Episcopal service.

"Music was furnished by a quartette composed of Mrs. E. K. Parker, Mrs. Harry D. Green, Moses Harriman and Charles F. Bingham, who rendered with feeling expression, "Through the Valley of the Shadow" and "Nearer, My God, to Thee." Mrs. Charles F. Bingham, organist of the Congregationalist Church, acted as accompanist.

"The left center of the Opera House was occupied by the relatives and friends of the deceased, and the right center was reserved for the members of the bar and the business men of Littleton.

"Funeral arrangements were under the direction of Messrs. Wells and Bingham, B. H. Corning having charge of the cortege and position of carriages in the line of the procession. George H. Tilton attended to the seating of the large audience, having as assistants Harry D. Green, Henry O. Hatch, Harry Baldwin, Fred Aldrich, Walter Heald and Harold Ward.

"The body reposed in a black broadcloth casket, in the rear of the same being placed a full length picture of Judge Bingham, draped with crepe and broad white satin ribbon.

"At the conclusion of the services, for fully three-quarters of an hour, a line of people, business men, fellow lawyers, young law students and gray-haired contemporaries, passed in front of the casket for a last look at the features, which, though wasted by the ravages of disease, were natural and bore the look of rugged dignity so characteristic of the dead while in the walks of life.

"Following these last tributes of respect the cortege formed at the head of the street and wound its way to the cemetery, carriage after carriage joining the line, until the procession stretched the entire length of Main Street, the longest cortege ever known to take its way to Glenwood.

"Amid reverent silence the dead was lowered to his last resting place, the final committal service being read by the Rev. J. B. Goodrich.

"The honorary pallbearers were life-long friends of Judge Bingham, comprising the Hon. Chester B. Jordan and the Hon. Irving W. Drew of Lancaster, the Hon. Alvin Burleigh of Plymouth, Edward Woods of Bath and Judge Edgar Aldrich, Henry L. Tilton, Benjamin W. Kilburn, and the Hon. James W. Remick of Littleton. The active bearers comprised the members of the law firm of which Judge Bingham was senior partner, the Hon. A. S. Batchellor, the Hon. William H. Mitchell, and the Hon. John M. Mitchell of Concord, Dexter D. Dow of Woodsville and the four nephews of the deceased—Capt. Harry Bingham of Washington, Harry Bingham Ballou of Boston, George H. Bingham of Manchester and Andrew Bingham of Littleton.

"Among promient men in attendance were Ex-Senator Henry W. Blair of Manchester, Frank D. Currier of Canaan, Senator Jonathan Ross of St. Johnsbury, William P. Buckley and George M. Stevens of Lancaster, John C. Linehan, Burns P. Hodgman and George M. Fletcher of Concord, Thomas P. Cheney of Ashland, Robert N. Chamberlin of Berlin, Stephen S. Jewett of Laconia, and Samuel B. Page of Woodsville."

By the provisions of his will, of which John M. Mitchell was designated as executor, Mr. Bingham left one thousand dollars

to the Littleton public library, and two hundred to the town of Littleton, the income of which to be used for the care of his lot in the cemetery. One thousand dollars was also set apart to defray the expense of the publication of his literary works, the same to be published under the supervision of Edgar Aldrich, Albert S. Batchellor and John M. Mitchell.

To John M. Mitchell, Albert S. Batchellor and William H. Mitchell he gave, respectively, the gold-headed canes presented him by his Democratic associates in the legislatures of 1863, 1871 and 1891.

All the rest of his estate except his library was given to his relatives, and his library to his law partners.

Upon a handsome bronze tablet, on the right wall of the vestibule of the new public library in Littleton, appears the following inscription:

IN MEMORY OF

HARRY BINGHAM

LAWYER, STATESMAN,

BENEFACTOR OF THIS LIBRARY.

BORN CONCORD, VERMONT,

March 30, 1821.

DIED, LITTLETON, NEW HAMPSHIRE,

September 12, 1900.

PRESS TRIBUTES.

From the Manchester "Union," September 13, 1900.

The long and honorable career of Harry Bingham, which came to a close at his home in Littleton yesterday, affords a striking illustration of the great truth that no man need sacrifice his opinions or do injustice to his convictions in order to attain success. Men believed in him because he was sincere. When he gave an opinion, it was an honest opinion, whether relating to law, to politics, to business, or to any other of the complex questions pertaining to human conditions. It was well known that he had great influence with juries in the counties where most of his legal battles were fought; and this influence was due, not only to his masterful presentation, plain, forceful logic and cogent reasoning, but to a well-grounded conviction that when he took a case, he himself believed thoroughly in the justice of the cause. It is related of Thomas Jefferson that a venerable man, upon being asked if Jefferson was a good lawyer, replied that he did not know, because he was always on the right side of the case. There was no question that Harry Bingham was a good lawyer, but through all the years of his long and successful practice there was a very general feeling among the people of Grafton and Coös counties that he was always on the right side of the case.

It is futile to speculate on what might have been had Harry Bingham sacrificed his political convictions to considerations of expediency. Had he cast his fortunes with the majority party, there can be no doubt that his ability would have won for him substantial recognition; but no mere consideration of personal advantage could have the slightest weight with such a man. He stood true to his convictions, whatever might befall; others received the honors which might have been his; and yet it may be seriously questioned whether any man who has apparently

been more successful in politics in New Hampshire during the past forty years has exercised an influence so far reaching and so beneficial to the state as did he. Throughout all the long period of service in the Legislature his keen perception of the fundamental principles of things, his ready apprehension of what was fit and what unfit, combined with his steadfastness to conviction, enabled him to exercise a marked influence upon legislation. As a member of the judiciary committee he checked many an ill-advised or pernicious measure, spared the courts much labor, and protected the people from a vast body of expensive and foolish legislation. His impress upon the character of legislation in New Hampshire will be felt long after many a man who received far greater recognition by the state has been forgotten. In his work in the Legislature he rendered the people of his state great and lasting service.

In politics, as in every walk of life, Harry Bingham was uncompromising, fearless and straightforward. Expediency was with him never permitted to clash with conviction. He did not know how to vacillate and he would not sacrifice principle for securing advantage.

From the Concord "People and Patriot," September 13, 1900.

The death of Harry Bingham is as the falling of a great oak in the forest. Though full of years and past the age of activity, his strong, rugged character stood out in example to all his fellows, and all are bowed in sorrow at his death. There is always inspiration for those who bear the burdens of the day in such a personality as his, and as he lies in death there is an uplifting lesson in a study of his career. The name of Harry Bingham has ever been a synonym for honor, for honesty, for the strictest integrity. He was one of those grand old men of whom there have been far too few in these later days; men who hated sham and hypocrisy in every form; men whom no influence could turn from the straight and narrow path of duty as it appeared to them; men who threw a mighty force of intellect and conscience into their battles for the people's causes.

As a lawyer Harry Bingham stood for more than a generation at the head of the bar of the state. He was a master of legal

principles, and the force and clearness that he employed in their expression made him an authority among the barristers of the state. In politics the same intellectual qualities that won him his success in the law made him a leader of his party. It is not too much to say that had the Democracy been in the ascendent in New Hampshire, he would have been among the foremost in the councils of the nation.

From the Concord "Monitor," September 13, 1900.

There is honest grief for Harry Bingham. His was a life of such lofty devotion to principle, such high achievement in his profession, such inspiration to all who live for duty, that of him it may now be said, in the sense of genuine loss which all will feel, as was said by Froude of Carlyle—"A man is dead!" A great man indeed has fallen; great not so much in the mere enumeration of his titles, as in the inherent strength of intellect and spirit and purpose which differentiates mankind and sets them into classes. Harry Bingham was a class by himself. He came down from the days of giants, and can well be numbered among them, for in all the characteristics of titanic brain and herculean purpose he enforced recognition as one of the great of his generation; and it was his proud satisfaction to have lived long enough to witness the general acceptance of this estimate of his services and worth. He lived a rugged, simple life. His tenets were few and he never deserted them. Many a momentary pang he found, no doubt, in the doing of his duty, but he never swerved. He kept the faith, he fought the good fight, with Luther exclaiming, "Here I stand. So help me God, I can do nothing else!"

From the Portsmouth "Times," September 14, 1900.

The death of Hon. Harry Bingham of Littleton removes one who for more than thirty years was recognized as the ablest member of the New Hampshire bar, and the strongest leader of the Democratic party in the state. In knowledge and understanding of the law, in cogency of reasoning and power of statement, Mr. Bingham had few equals and no superiors at the bar anywhere in the country; while his heroic devotion to Democracy and its cause, in the face of continued defeat and discouragement won for him the respect even of his political enemies.

BAR EULOGIES.

At the September adjourned term of the Supreme Court, held at Woodsville, December 11, 1900, the Hon. Robert M. Wallace presiding, a committee of the bar reported the following memorial, which was read:

The members of the bar of Grafton County, deeply afflicted by the loss of their associate, the venerable Harry Bingham, would express their appreciation of him by asking the court to place upon its records the following brief memorial:

By the death of Harry Bingham, the state of New Hampshire has lost a good citizen, a learned and conscientious lawyer, and an honest man.

He was sturdy and resolute in his opinions, which he formed by careful and patient study and reflection, and which, while seriously examining and weighing all arguments against them, he was always ready to defend.

He was animated by a spirit of the loftiest patriotism, and he never consented to or supported a policy which his judgment did not hold to be for the public welfare.

Being endowed by nature with superb mental and physical powers and unquestioned genius for the law, by conscientious effort and study and unwavering fidelity to the courts and his clients, he early achieved, and for more than half a century maintained, an exalted rank in his profession.

His kindly nature and generous spirit endeared him to his professional brethren, and his recognized lofty principles of action and uniform uprightness ensured for him public confidence and trust.

Honored is the state which numbers among its citizens such men!

While recognizing his profound legal learning, we are not unmindful of his broad statesmanship and his attainments in

literature, history, and philosophy, in all of which lines, during his long life, he was a diligent and thorough student and became a master.

The fine traits of his nature were manifested by the calmness with which he bore a long and hopeless illness, during which he examined with judicial fairness his long life, and was able to feel that he had run a good course and could meet the inevitable earthly end with "an unfaltering trust":

"Like one that wraps the drapery of his couch
About him, and lies down to pleasant dreams."

EDGAR ALDRICH,
JOHN M. MITCHELL,
IRVING W. DREW,
Committee of the Bar.

Following the reading of this memorial members of the bar addressed the court as follows:

HON. EDGAR ALDRICH OF LITTLETON.

May it please your Honor:

The dark shadow of death is again thrown across our circle and we are called to mourn the loss of a member of our bar who has been a notable figure at this forum for considerably more than fifty years.

When one, who has for so many years exercised his great powers with immeasurable influence in a state, is removed by death, the announcement of the fact to the court in which his labor has been performed, introduces an important proceeding, and one which involves a loss not only to the court and the bar, but a loss common to all the people of the state. But here, in this court, where Mr. Bingham has labored so long, the loss can perhaps be best appreciated, for the court and the bar know how great, how devoted, how thorough, how continuous, and how persistent his labors have been.

At the outset let me say, when we come to pay tribute of respect to the memory of the venerable Harry Bingham, we come not to pay tribute to the memory of an ordinary man. With

him the gifts of nature were great, and to the abundant gifts of nature was added a long life devoted to unremitting and methodic industry. The foundation and the superstructure complete present a stupendous monument of strength and beauty. There were some sharp angles and some unhewn edges, but these defects were technical and altogether lost in the breadth and towering proportions—in the greatness, the grandeur, the beauty, of the wonderful whole.

Those who knew Judge Bingham as a lawyer only, knew but one feature of his many and diversified attainments. He was more than a great lawyer; he was a ripe scholar, a philosopher, a historian, a profound statesman, and a jurist. He was nowhere wordy and superficial, but ever thorough and always on bedrock.

He was a persistent reader. He did not read rapidly, but thoroughly, and with an understanding that surpassed even the understanding of the man who wrote the book. It was part of his reading process to pause to consider the reasons stated by the author, and to call up from the wonderful resources of a richly-stored mind all of value that he had ever read or seen or heard on the subject. The essence of everything he ever read or heard or saw he retained. This power to comprehensively and understandingly retain local and historical data, and all the shadows, and things of substance, from early youth to ripe old age, to my mind, was his most remarkable characteristic. It was not the data alone in the abstract, but what went with it, and this illustrates what I mean in saying that he read and retained understandingly. In his mind he arranged historic matter, and grouped events in their proper periods. If it were a ruler of the Jews or a Roman Emperor, the causes and events in the circle of the reign; or if a Shah of Persia, it was the same. So it would be if a ruler in Israel, or in ancient or modern China, in ancient or modern Mexico, or in Peru, or Iceland, and the mental transition from Rome and Israel to any suggested place on the face of the earth, while moderate, would be natural, graceful and easy.

It was my fortune, in the few remaining years after his retirement from active work in the profession, to see much of him. To

him all subjects and all things were apropos. I do not remember ever introducing a topic of conversation that he did not at once take up familiarly the subject to which it related and add lustre to what had been written or said by others. Perhaps it was my aim to draw him out. To get the richness of his learning and the fullness of his reminiscent power, it was necessary after introducing a subject, to listen well, and let him pull on in his own way, and as he recalled one event, that would suggest another, and before leaving the subject the ground would be thoroughly and intelligently covered.

I remember one evening he asked me what I had been reading. I told him I had just finished the life of Thaddeus Stevens. "Well," said he, "Thaddeus Stevens was a remarkable man." Continuing, he said: "I remember the first time I ever heard of him. It was in 1830 or '31, at the time the anti-Masonic crusade was on. My father was a Mason, and my Grandfather Wheeler was an anti-Mason. One morning father and I were weeding in the garden and talking, and I heard some one say, 'Good morning, Mr. Bingham.' I looked up, and there stood Grandfather Wheeler, with his arms folded, leaning against the garden wall. After passing the compliments of the day, Grandfather Wheeler said, 'I heard a great speech yesterday over at Peacham. It was the greatest speech I ever heard in my life, and it was against the Masons.' 'Was it?' said father. 'Who made it?' 'Young Thad. Stevens,' grandfather replied. I remember he said 'Young Thad. Stevens,' and I recall that I wondered at the time how young a man could be and make as great a speech as grandfather said that was." From this Judge Bingham took up the subject, and ran the whole gamut of the rise and fall of the anti-Masonic party in Vermont and the nation. He told who the candidates were, and the vote cast for the various candidates in the state and country. From this he followed the career of Thaddeus Stevens through the ante-bellum days, and through his great and signal service in Congress, covered by the Civil War and the reconstruction period. At this point, in a spirit of playfulness, and to test his memory and his sublime and childlike simplicity and sincerity, I said, "Judge Bingham, I believe you said at the outset that you and your father were weeding in the garden in 1830 or '31 when your

grandfather came along. What were you weeding?'' Apparently unmindful of my playfulness, after a moment's reflection he replied, ''We were weeding out the onion bed,'' and then, without being further diverted, continued on his course in the delineation of the character, strength, and politics of Thaddeus Stevens.

After seeing Paris, Rufus Choate wrote, with a feeling apparently akin to sadness: ''I have lost the Tuileries, and Boulevards, and Champs-Elysées, and Seine, and Versailles, and St. Cloud, of many years of reading and reverie—a picture incomplete in details, inaccurate in all things, yet splendid and adequate in the eye of imagination—and have gained a reality of ground and architecture, accurate, detailed, splendid, impressive—and I sigh!'' Such is the revelation which usually comes to man upon seeing with the eye that of which he has read; but not so with Mr. Bingham. His reading and reflection had been so thorough and analytical that the world and its great centers seemed to have no surprises for him. He knew the world's history, and in his mind's eye, though not actually, had seen all its structures. He seemed to have trod the streets of Rome, and walked beneath her imposing domes, within her galleries, her monasteries, and her churches, and to have wandered through the ruins of her ancient gardens and the dark passageways of her catacombs, and to have stood upon the Seven Hills and viewed all the wonders and the glories of the Eternal city. He seemed to have visited the castles of the Rhine, and to have walked the corridors of the libraries of ancient Alexandria. He was familiar alike with the architecture of ancient Jerusalem, and of modern Paris, and of the mountains of Italy and of Alaska. The source, the navigability, the color and the shade of the waters of the rivers of the world, were in his mind and eye. The softness of the Italian sky, and the wonderful sunsets resplendently reflected by the ice-covered mountains of Switzerland, seemed a reality to him. The scenes enacted upon the great battlefields of the world were familiar to him, whether upon the ancient fields of Cannae, or of Thermopylae, or upon the fields of Borodino or of Waterloo, or of Saratoga or Gettysburg; or whether the savage battle grounds of the Indian were those of the ancient far East, or those of our own country in Rhode

Island and Massachusetts, on the plains, or on the confines of our East, our South, or our West.

Mr. Bingham was a jurist by nature, and would have adorned the highest judicial seat in our land. But although judicial position was several times within his reach, he declined it. He made no secret of saying that the reason for turning proffered judicial position aside lay in his ambition for labor in the Senate of the United States. All agree that he was admirably equipped for usefulness in the deliberations of that great body, but his destiny in that respect was involved in the non-success of the Democratic party with which he early cast his lot, for the people of New Hampshire ordained that no one who was a Democrat, during the period covered by his life of activity, however eminent, however well equipped, should represent them in that body. All, however, agree that had his destiny happened to be cast with that of the dominant party, whichever that should be, the people of New Hampshire would have early and quickly ordained that the place belonged to him during his natural life. Once there, all believe that his work would have reflected credit and honor upon the state and nation; that his courage, his industry, his persistence, his stately and dignified bearing, his well-stored brain, his rare philosophical and literary attainments, his deliberative mind, his gravity and power of speech—in a word, his statesmanlike qualities—would have made him prominent among the most prominent senators of his day, and that he would have achieved a name as national as that of Sherman or Hoar, of Edmunds or Thurman.

Though a bachelor, he respected woman, and believed that the function woman exercises—her influence and her power in the home—is as important and useful as the function of man in the broad and open field of life, for the reason, as he believed, that great and powerful nations are impossible without great men, and that great men are possible only where great and good mothers preside over the childhood and the home.

His philosophy was such that to him the rose and the rock, the trickling brook and the broad ocean, the sunshine and the ominous darkness that precedes the storm and the lightning, the tiny blade of grass and the giant oak, the grain of sand and the towering mountain, the fitful flight of the humming bird and

the unaltered and unalterable revolutions of the planetary system, were alike a joy and things of beauty, because they are a part of nature and a part of the eternal plan of the Almighty. And his philosophy was such, that to him, purpose, industry and principle in man were qualities which most surely lead men to honorable success; and because wise and successful men raise the standard of civilization and of nations, and thereby advance the design of the Creator.

He believed profoundly in the genius of our institutions, and thought the men who assembled to lay the foundations of our government were as great as any set of men who ever assembled for such a purpose since the world began.

Among all the men who ever lived, Washington was his ideal. He thought—all things considered—what he accomplished against the difficulties under which he labored, his inherent civic and military strength, the way in which he wielded power, and the way in which he surrendered it, the ruggedness and simplicity of his character, the peacefulness and serenity of his mind and of his private life, constituted him the greatest and most worthy type of manhood of ancient or modern times.

Of men of letters and dazzling genius, Shakespeare stood first, and was his greatest delight; yet he held in adoration Gray's Elegy and Milton's Paradise Lost as masterpieces of stately and inspiring verse, and was charmed by the sweet songs of Longfellow and Whittier..

With him the Bible, with which he was familiar, was the greatest of all books; and many of us recall the impressive manner in which he recited the Twenty-Third Psalm as his peroration in the Whitman will case.

While he did not agree, at the time, to all that was written and said in the period preceding the Civil War against the institution of human slavery as established in our government, he believed that Harriet Beecher Stowe, through her "Uncle Tom's Cabin," did more to prepare public sentiment for its final overthrow than any other one person.

He believed that the time has come when our nation should take its stand among the great nations of the world and become a leader upon the great international questions necessarily presented by new and changed conditions. He believed that ex-

pansion in all life, and under all conditions, is a logical and necessary incident of growth and power. In this line I remember hearing him say, in connection with Washington's non-intervention policy: "Washington was a great man; he was great enough to comprehend the situation which confronted him in his day, and the whole of it. He could not have foreseen the conditions that confront us in our day. Steam and electricity have made countries which were remote from each other in his day, near neighbors in our day, but he was so great that if here, I have no doubt whatever, he would comprehend the condition that confronts us and the whole of it, and, comprehending, that he would do his duty."

In religion Judge Bingham was not a bigot. He was tolerant of the religion of Confucius, the ancient Chinese law-giver, who taught that one should not do unto others what he would not have others do unto him; and he accepted the teachings of our Saviour, that one should do unto others as he would have others do unto him.

This is not the time for an extended sketch of the life of Judge Bingham as a lawyer. Upon a proper occasion some suitable person will delineate his great qualities as a lawyer and his prominent career at the bar. I will only say that his name and his briefs appearing in the New Hampshire reports since *Ranlett* v. *Moore,* decided in 1850, reported in Vol. 21, down through and including Vol. 69, constitute a permanent monument to his memory as a lawyer.

Though gone from earth and having entered

> "The undiscovered country from whose bourne
> No traveler returns,"

in memory we see him still, with the well rounded and commanding head, poised upon broad, square-set shoulders; the sturdy oak-like pose, as if the feet were deeply and firmly rooted in mother earth; the erect figure, firm and steadfast, as if mysteriously bolted to New Hampshire granite and buttressed by her everlasting hills; the dignified and stately carriage; the large, brown, wide-open, ox-like, honest, glistening eyes, a prominent feature of that grave and impressive face. And to complete the picture which hangs in our memory, we may well borrow a de-

scription of Donatello's famous statute of St. George, and say: "He stands there sturdily, with his legs somewhat striding apart, resting on both with equal weight, as if he meant to stand so that no power should move him from his post."

The last time I saw Mr. Bingham to have conversation with him, which was only a few days before his death, his superb figure was sorely diseased and shattered, but his wonderful mind shone with unclouded and undiminished beauty and strength. In closing, let me reproduce, in its substantial features, what he said on this occasion, for it illustrates several characteristics to which I have referred. It illustrates the teachings of his philosophy of living and dying. It illustrates the accuracy of his memory. It illustrates his quaint humor, and it illustrates his patience and his thoughtfulness. He spoke of his age, and said that he had outlived by many years the period of threescore years and ten allotted to man, that seventy-seven of these years had been comfortable and convenient, and that while the last two had been uncomfortable and painful, he ought not to complain.

"And," said he, "while I am helpless, and while I am a burden to myself and to others, and while it is best that I should go, I shall remain on earth all the days allotted to me, and if you ever hear that I have done anything to shorten my days, you may know it was because I was not myself. It is just as important," said he, "that one should die respectably as it is that one should live respectably," thus exhibiting more than the Roman spirit of another who, when informed that he must die, replied, "I like it well, I shall die before my heart is soft, and before I have said anything unworthy of myself." At this time I had just returned from my camp at the lakes, and to divert his mind I referred to my good luck with the rod. He asked me whether I fished on the lakes or on the brooks or rivers. I told him that I had my best luck on a little pond called Jaquith's pond; and, thinking that I might interest him by telling him something that he did not know, related that, according to tradition, years ago, a strange old man by the name of Jaquith went a mile or more into the unbroken wilderness and cleared up a few acres of land near this pond, where alone he spent a considerable portion of his time for many years, frequently journeying through the north country driving a steer and a heifer. "Oh," said he, taking up

the story, "I remember old Jaquith very well. The first time I ever saw him was in the winter of the year that I was eight years old. Our home was in Concord, Vt. I was reading a book in the kitchen, and mother was at work. Old Jaquith drove into the yard with a heifer and a steer harnessed to a sled. There were boards around the platform of the sled, a little straw, a few sheep, and two or three pigs upon a platform. He came to the door and entered without rapping, and as I remember him he was rather a marked-looking man, somewhat advanced in years, and without further introduction, he said, 'I am a preacher; I preach for a living. I preach the Gospel of St. Paul, and I preach after the manner of St. Paul. I preach an hour for a quarter of a dollar, a half hour for fifteen cents, and a quarter of an hour for ten cents;' and mother, who was busy, evidently did not catch what he first said, and inquired, 'What is it you do for that?' And he repeated, 'I am a preacher; I preach for a living. I preach the Gospel of St. Paul, and I preach after the manner of St. Paul. I preach an hour for a quarter of a dollar, a half hour for fifteen cents, and a quarter of an hour for ten cents. And, I forgot to say, that I take my pay in hay for my cattle and sheep, or in potatoes for my pigs.' Mother hesitated, and I never quite made up my mind whether it was because she was short of hay and potatoes, or whether she felt it would be trifling with a sacred subject. But, boy-fashion, I rather encouraged the preaching, and mother said, 'Well, you may preach for us for a while, and we will pay you in potatoes.' He went out to the sled and brought in a large iron kettle and set it down on the kitchen floor, raised his hand and head reverently, and was about to begin, when his hand fell, and he said, 'I forgot to inquire whether I am to preach for a kettleful of potatoes, or half a kettleful.' And mother said, 'Well, while you are about it, you may as well preach for a kettleful.' Mr. Jaquith then began, taking for his text that passage of the sacred Scriptures which compares the gospel to the waters of the running river, and he pointed out that both were inexhaustible and everlasting, and illustrated by saying that one might dip a pailful of water from the river to slake the thirst of his animals, 'but the river would run on undiminished, and so it is with the gospel. There is enough gospel to save the souls of all the living

in the world, and then there would be just as much left.' " Thus as he was nearing the end of his life's journey, he gave the dialogue and vividly recalled what I have related, and much more of the details of this scene of his childhood days, which quite likely had not been in his mind for more than seventy years.

Fearing that I might tax his strength too much, I rose and said, "I must go." "What?" he said, "You are not going now, are you?" I replied, "Yes, I must hold court tomorrow, and I think I had better go." "Well," said he, "go out and hold your court, and deal justly by all men; and, if on the morrow I find myself healed, and restored to youth and strength, I shall attend your court." Thus near the end, and as he stood upon the verge of the valley, he employed a happy, optimistic, and poetic figure of speech, to convey the idea in his mind, that with him dissolution and transition were at hand.

HON. JOHN M. MITCHELL OF CONCORD.

May it please the Court:

It having been my rare privilege, great pleasure, and incalculable advantage to enjoy the familiar acquaintance, solid instruction, and true friendship of this great man, for a period of thirty years, I feel at this time incapable, even with the wealth of material at hand, to do more than, in a very general way, speak of the character, achievements, worth, honor, and ability of Judge Bingham.

That he was endowed by nature with an intellect of great capacity and superb qualities, which were splendidly developed by the most extensive and expansive learning, as well as the most rigid discipline, could be readily observed by anyone who enjoyed his society, whether he indulged in a discussion of the subject of literature, law, politics, statesmanship, religion, history, or any of the varied phases of our complex life and civilization.

His active professional life covered a period of over half a century, embracing large experience, characterized by honorable and successful results in all the varied phases and features of the general practice of a New Hampshire lawyer. He was, in each relation, a recognized and distinguished master. There was no labor which came within the employment of a lawyer, whether

investigating a question of law, or developing a question of fact, or preparing a case for trial, examining or cross-examining a witness, opening a case to the jury or making a final argument, or arguing a case before a single judge, or the full court, which was ever regarded by him as unworthy of his attention and his best effort.

Any man for whom, or any cause in which, he engaged, received his undivided attention and the benefit of his great experience and learning.

The members of the bar who must record, for the benefit of posterity, their esteem of Judge Bingham, are those of us who first met him in the prime of life and accompanied him down its western declivity. We are not able, except by conjecture, to think of him, much less speak of him, during that period of development, when he was forming and giving evidence of the splendid and superb career which lay before him. The men who were his associates during that period, have, like himself, gone to their final reward. And those men, as we recall them, from our personal acquaintance, or through history or tradition, we recognize as the fit and accomplished associates of a man of Judge Bingham's character. Conspicuous among them, we readily and instinctively call up the late Chief Justice Bellows, the Rands, Harry Hibbard, Judge Carpenter, Duncan, Judge Ladd, Ray, Burns, Wells, Quincy, Burrows and George A. Bingham, among those in the northern part of the state, with Pierce, Atherton, Morrison, Minot, George, Pike, Marshall, Whipple, Wheeler, Faulkner, Cushing, Burke, Hatch, Christie, Marston, and many others, in other parts of the state, who are held in high esteem, on account of the manner in which they adorned their chosen profession. Among the living who could be regarded as contemporaries in his early manhood are none whom I recall, except Brothers Fling, ex-Senator Blair, and ex-Judge Hibbard.

This evidences the remarkable changes occurring in the personnel of the bar, even during a period of thirty years.

Judge Bingham had a clear and unclouded conception of a legal proposition, which he developed and elucidated with a strength, clearness, and force that eliminated all extraneous matters, and brought home, to the minds of his hearers, plainly and

clearly-cut, the question propounded, with all the unanswerable reasoning which could be mustered in its support.

His power was equally cogent, felicitous, and peculiar to himself, in the demonstration of a question of fact. He had few equals and no superior in the presentation of a question of fact to the ordinary mind. His language was simple, direct, unadorned, yet pointed, convincing and conclusive. His illustrations, though plain, were strikingly argumentative, and they enforced with telling effect the point he was making.

His admiration for the law, and the legal profession, was exalted; and he found this field, among all that he cultivated, the most congenial for a life-work, and the best adapted for the development of the best qualities of man.

He believed in "a few wise laws wisely administered," rather than many laws, a part disregarded entirely and others indifferently enforced.

He abhorred wrong, injustice, dishonor, duplicity, and oppression, and he had a remarkably keen instinct and capacity to detect and expose them. He believed the law to be the safeguard of liberty, as the custodian of all private interest, and as the palladium of public justice.

He believed in restraining the government within the limits fixed by the Constitution,—those limits to be ascertained by a careful and diligent study of the works and lives of the sagacious framers of the government.

In the practice of his profession he was a model, honest, upright, conscientious and industrious.

It may well be said of him,—

> "Whose armor is his honest thought,
> And simple truth his utmost skill."

With associates he was considerate, indulgent, and tolerant, so long as he believed their mistakes resulted from youth, inexperience, or lack of capacity. No associate was ever consciously deprived of his fair share of honor in the successful conduct of a trial or management of a cause; and in defeat he was ever ready to take his full share of the burden incident to such a result.

We might well say of him, as Emerson said of another great American,—"He was thoroughly American, had never crossed

the sea, had never been spoiled by English insularity or French dissipation; a quiet, native, aboriginal man, as an acorn from the oak; no aping foreigners, or frivolous accomplishments."

It may be said of him, without exaggeration, that he was a great man, a good man, "an honest man, the noblest work of God."

He was the kind of a man whom Emerson had in mind when he said: "The world is upheld by the veracity of good men; they make the earth wholesome. They who live with them find life glad and nutritious."

Judge Bingham "carved his own statue, he built his own monument;" and to us, his associates, and to posterity, he has left the splendid achievements of a great, good, and well-spent professional, public and private life.

He has left us, and his associates, a heritage, consisting of a splendid and exalted example, a wholesome and unadorned precept. And he left works that will long survive him. As was said of another we may say of him: "The best monument to a great and good man are the works with which his hand and head have enriched the world."

We can say of him, with truth, as he did, with reference to the character of Harry Hibbard, on a like occasion, more than twenty-eight years ago:

"As a public man he held responsible positions, and when their duties were discharged, became again a private citizen, with his honor unsullied, and his integrity unsuspected. As a legal practitioner he fulfilled the highest obligations of his profession with all fidelity to the court, as well as to his client. By his death, we have lost a man we could trust, and a leader we could safely follow. We can no longer have his direct aid and assistance, but his example still lives and will remain to inspire and guide us, and those who shall come after us."

As a friend he was true, constant, and affectionate; his nature being kind and considerate.

So long as my memory performs its natural functions I can never forget his kind, pleasant, and indulgent relations with me, not only as a boy, when I first made his acquaintance, but, also, as a young man, and during the last years of his life.

He was a man of genuine modesty; never aggressive, or offen-

sive in the display of his learning, or the exhibition of his great strength. It might be said of him, as it was of another great and learned lawyer:

> "Knowledge is proud that he has learned so much;
> Wisdom is humble that he knows no more."

How aptly we may apply to him the saying of Boileau, who said that, "the wisest man is generally he who thinks himself the least so."

In no period of his long and useful life did he exhibit, in a higher degree, the nobility of his character and the grandeur of his soul, than during his long illness and last earthly days. During that painful and trying time he displayed that calm repose, great patience and sublime trust which evidenced the conviction that he had faith in the Divine Revelation that, "Though man die, yet shall he live again," and that, "This corruptible must put on incorruption; and this mortal must put on immortality."

HON. IRVING W. DREW OF LANCASTER.

May it please the Court and Brethren of the Bar:

I did not expect to say anything upon this occasion, because I understood Judge Aldrich and Brother Mitchell, from their more intimate relations with Judge Bingham, would make extended remarks, and I also understood there would be several here who had been connected with Judge Bingham as partners and students in his office, who would probably require all the time.

But I will say that I fully approve of, and agree with, all that has been said. I think Judge Aldrich has treated the intellectual and social characteristics of our dear and honored friend in a very intimate and very interesting way. He has made us see Judge Bingham as everyone has seen him who was ever intimately associated with him in time of battle and in time of peace. I always felt when I was in the presence of Judge Bingham I was under the lee of a great mountain which would protect me against all assaults. He was emphatically a great man. I know it is natural and easy to say, when an associate, a member of the bar, or any friend who has had any public standing, passes away, that he was a great man; but in this instance nothing else could be

said and said truly. He had no unnecessary acquirements. He had no useless formalities, but he had method of thought and expression which was original and full of strength. He always built his structures from the foundation rock. He never seemed to use material that another had quarried, nor to apply any method borrowed from another. He had the type of mind which naturally takes possession of all thought and all methods and in the using stamps them with special originality and force. His manner of presenting his views was so original and unique that he always commanded willing attention. All his ideas were so expressed that the essential truth of them was the most important thing. As has been suggested, he was thorough in everything. It was impossible for him to do anything superficially. Every essential detail, so far as I had occasion to observe, commanded his attention and force of character just as fully and completely as any other part of his work. His intellectual appetite, digestion, and assimilation were of the best sort. He selected only the substantials and essentials, and these he thoroughly masticated and digested, and in the process of assimilation every nutrient quality was saved and appropriated, and all the waste and dross were thrown aside. His arrangement and classification of information was very remarkable. Everything, relating to any given subject, seemed to come forth from the storehouse of his memory, even after many years, in the actual order of its evolution. Whenever his attention was called to any subject which had at any time been regarded as of theoretical or practical utility he would discourse upon it with such fulness of information and familiarity as can only come from complete mastery of the subject. The structure and habit of his mind were such that his conclusions were the product of thorough investigation and careful and discriminating selection and weighing of relevant proofs.

Tenacity of purpose is a necessary attribute of such a character, but Judge Bingham's tenacity was allegiance to principle, not to form. He could not abandon the right as he saw it for any consideration. He marched sturdily forward in support and advocacy of what he believed true and just, even at the sacrifice of the dearest associations of a lifetime. His mind was remarkable not for its velocity but for its momentum.

I have said—we must all say—we have lost a great man; great

not only as compared with other great men with whom we have been associated, but, if we can compare great men so as to make any absolute weighing, we must admit to ourselves, and confess to each other, that, take him all in all,—intellectually, as a man of heart, of soul, and of good fellowship, a man who was in intimate touch with humanity, who appreciated what was noble and scorned what was base,—we have never yet grasped the hand of one who stood higher than Judge Bingham.

H. M. MORSE, ESQ., OF LITTLETON.

It is neither proper nor possible for me to speak of Harry Bingham as a lawyer, for he long ago put out upon the high seas, while I have but gathered a few scattered pebbles upon the shore; moreover, this duty is in the hands of those who from long association are especially qualified to speak of him as a lawyer. But, great as is the compliment you pay to a man's intellect when you say he is a great lawyer, it falls far short of full justice when it is said of Harry Bingham, unless it be added that he was a many-sided man, and great from any view-point, and preëminently great as a whole.

It occurs to me that here there are few faults and weaknesses concealed by the halo which always surrounds the memory of a great man lately gone from among us,—hence less danger of fulsome eulogy. Speaking generally we all remember a strong, dominant personality, whose influence was potent upon whomsoever and whatever it came in contact with. It is not, however, too much to say, I think, that we should search in vain for anything but good resulting from this influence.

It has been my good fortune to know something of Harry Bingham as a man and a citizen in the community where he lived, and I have known the rare pleasure of his companionship at his own fireside. It was there, I think, and under such conditions, that the profundity and wide range of his attainments, outside his profession, were most fully and freely displayed. His hospitality was as charming as it was generous, because of the feast of intellectual tid-bits one was always sure of. He had dug deep into treasures of the literature of all times and climes, in science, philosophy, history, poetry and religion.

I recall an evening spent with him some two years since, when he talked for an hour and a half of the life, times and mission of Buddha. I thought then, and I think now, that he knew more about Buddha, the purity and grandeur of his life and the subtleties of his religion, than nine tenths of the church-going people know of the more modern doctrines of Christianity. It was scarcely possible to mention a subject about which he did not know much more than you knew yourself, nor a country with whose history, traditions, government, and people he was not perfectly familiar. So remarkable was this, that he always gave me the impression of being a specialist in whatever matter he discussed.

The world at large saw in Harry Bingham a man aggressive,—not always tolerant of opposition, sometimes impatient in manner and caustic in speech; but the other side of the man, the side which quickened in the genial warmth of social intercourse, was kindly, genial, helpful, and with an unwasting fulness of charity for the many who stray from the narrow grass-grown path of righteous living, wherein walk the few who never stumble. For that class who rely for proof of righteousness upon profession rather than performance, I never detected any marked tenderness.

There was in Judge Bingham a vein of quiet humor which played over his lighter discourse like sunlight upon an autumn forest. He spoke not infrequently upon subjects akin to theology. He always impressed me as having a strong, well-settled belief in a Great Intelligence, without attempting to limit its attributes. I always thought he believed in immortality as a fact in nature. His discourse upon these and kindred topics was characterized by calm reasoning and simple reverence, rather than mushy sentiment. He did not, by sheer physical effort, try to believe things that his intellect told him were flatly incredible.

His manner of speech in private conversation was marked by the same virility, directness and simplicity notable in his public utterances. It sometimes rose to a plane of rugged grandeur, but never degenerated into "rag-tag metaphor," nor became lurid with splashes of ornate, pointless generalities.

It seems to me that the two traits, closely kindred, which stand

out, both in his public and private career, like Washington and Lafayette in our own northern landscape, were his dauntless courage and absolute devotion to his principles. I do not mean the courage which walks carelessly to the cannon's mouth, but the calmer, less dramatic courage which shrinks at no sacrifice, but clings to a perishing cause, and "looks out for no plank upon which to float away from the wreck."

No man ever saw him walk falteringly when he followed the twin lights of duty and conviction, whether his steps took him among "troops of friends," or into that exalted isolation, too often the lot and station of high integrity. He was, however, never a "poseur"; he never "made proclamation from the house-tops," and never, if I may borrow a flippant but pregnant phrase, "played to the gallery." He was genuine, sincere and honest, and walked always in the white light of truth. Hence it followed that he was an intense hater of shams, a despiser of humbugs, though he lived in times when these things seemed to wax and grow strong.

His twilight of life was long and his physical powers knew the blight of disease; but through it all, his splendid mentality lost none of its noontide luster. During all the time that he stood upon the very "margin of the great change" there was no word spoken which we could wish unsaid, and no act done which we could wish undone. He stood, as it were, in the visible presence of death, and his dignity and courage were not shaken. He died as he had lived, proudly self-reliant. Let us believe that "in that still country on the other side," the wealth of this life may be counted among the treasures. I know how weak and inadequate is this tribute, but, such as it is, I lay it with reverent hands upon his grave. Your Honor, these occasions are coming with startling frequency. Each recurrence reminds us that

> "Some we loved, the loveliest and the best,
> That from his vintage rolling Time hath pressed,
> Have drunk their cup a round or two before,
> And one by one crept silently to rest,"

and that we who are left are hastening toward the sunset.

SAMUEL B. PAGE, ESQ., OF HAVERHILL.

Forty-three years ago the present winter, when a boy of nineteen, I was engaged teaching a district school in Judge Bingham's native town, Concord, Vermont. A sturdy old Vermont Democrat, with whom I boarded, who loved "Judge" Bingham, as he was called in those days,—and loved him especially for his stout and aggressive devotion to Jeffersonian democracy, and because of his pride in him as a townsman by birth,—took me to Littleton, my own birthplace, and introduced me to Harry Bingham, then in the full flush of a vigorous manhood. During that winter I called at his office several times, and the outcome of this was my entrance into his office as a law student the following year.

I am not qualified to speak of the character of this noble and admirable man save from the standpoint of my first impressions, which never faded, but from year to year, in our constant intercourse, became more fixed,—indeed, they can never be effaced or obscured. Furthermore, a young fellow naturally remembers best those things which were most useful and serviceable to him when he most needed service and encouragement. As I look back upon it, I feel that the Judge must have deemed me a strange sort of a duckling to be huddled in his nest, so entirely unlike were we in our mental characteristics; and I can even now recall some of the comically quizzical looks that he would cast to meward when I jumped at a conclusion, which he would only have reached by more slow and logical and doubtless surer mental processes.

During those student days and ever since, for his was a thoroughly consistent life, lived up to the same high standard, I was and always have been most impressed by his unfailing kindness, his uniform courtesy, his tender and pardoning consideration for the weaknesses and faults of others, his generosity of heart and hand extended in every possible direction, and above all his vast and unassailable faith in humanity. I do not believe that Harry Bingham ever doubted the words or motives of a man who had once won his confidence. It would seem monstrous to a man of his make-up and unreserved faith in human nature that a friend could deceive or betray. His simplicity of manner, referred to here today by others, was but the reflection of his simplicity of

character,—as he believed in and reverenced the Maker of the universe, so he believed in and honored man as the perfect work of the divine creation.

I do not know, in these forty-three years of as long and intimate friendship as any man at the bar who is now living enjoyed,—I do not recall a single difference that ever arose between us, either in professional or political life, with a single exception, and this was so typical of the character of the Judge that I must be pardoned if I mention it.

I entered the Legislature from the town of Warren in 1864. The Judge then represented the town of Littleton. Just before I opened my office in Warren there had been a homicide there and the community were much excited over it, which excitement went up to white heat later when the man who committed the act was discharged. To the popular mind it was a miscarriage of justice. The respondent had political influence and wealth and was naturally defended by the ablest of counsel, among them Harry Hibbard and Josiah Quincy, I think, and to these influences the citizens attributed his discharge. Soon after, a member of the Shaker family in Enfield was shot and killed by a United States volunteer whose child was with the family and whom the soldier claimed he was not permitted to see. After a trial and a comparatively feeble defense, Wier, the respondent, was convicted, and at the convening of the Legislature he was in prison under sentence of death. A joint resolution was introduced into the House of Representatives requesting the Governor and council to commute the sentence. There was little really to be said in favor of the resolution save that the man had interposed no substantial defense. Judge Bingham, with his profound respect for law, and his conviction that only simple justice had been done, very zealously opposed the passage of the resolution and in addition to discussing the merits of the case stated at the conclusion of the whole matter that it was something with which the Legislature had nothing to do, and he was undoubtedly right.

My sympathies were aroused in behalf of the almost friendless man—intensified by the conditions I have spoken of—and after the judge and several others had addressed that house adversely, I took the prisoner's case upon the floor, and, ignoring the legal

side of the question, struck a sympathetic vein, and among other things talked about hanging this man for both murders, making of him a vicarious atonement for the Warren wrong, etc.,—it was a speech with more of fire and passion than reason, very likely. The result was that we carried the house in favor of the resolution by a majority of something like "16 to 1," and it was passed.

After the House adjourned and as we were leaving the hall, the judge, who was as much exasperated with me as a man could be with a boy whom he had taught better things, put his hand on my shoulder and said,—"Young man, you have done little credit today to your legal training." But his resentment didn't last long, for the next morning when he came into the House, he said, "Well, Sam, perhaps I judged you too harshly last night and was a little abrupt, not making proper allowance for your local environment and your youthful ardor, and yet, sir, I don't think I should have done that myself at your age." And I don't think, your honor, I don't think he would.

There is very little that can be said of Judge Bingham that has not already been said here, except in these more personal ways in which they more particularly appeal to me. I, of course, regard him as a great lawyer, but I regard him as a great man and a much greater man than lawyer, for this very fault of his nature, his absolute confidence in humanity, so frequently undeserved, is one of those faults leaning so close to virtue's side that it adds an additional wreath of honor to his memory.

W. P. BUCKLEY, ESQ., OF LANCASTER.

[LETTER.]

Dear Brethren: Because of the interruption of communication by the great Galveston storm, at the time of the funeral of our late and revered and honored brother, Harry Bingham, I was prevented from acting as one of the pallbearers, a sad office which I would gladly have filled, and the whole a circumstance I shall never cease to regret. It was my purpose and my hope to be present with you today, on the occasion of the memorial exercises, but now, at the last moment, the exigencies of my client's cause—the neglect of which none would deprecate more than he—doom me to another disappointment.

During the few years since my coming to the bar it has been my lot to be present on far too many occasions like that you are attending today; and though I have always had a desire to add my testimonial or friendly criticism to the words of my brethren, some mentor has ever restrained me; but on this occasion the same voice which erstwhile enjoined silence bids me speak—even though it be through the cold medium of the pen.

It is not for me to speak of our deceased brother's greatness in the profession he has so highly honored; only those whose abilities more nearly approximated his can qualify as critics of his masterly legal mind. Nor would I, if present, undertake to gauge his broad learning in what the world is pleased to call polite literature, the classics, ancient and modern, in poetry and prose; history, religious and secular; the sciences and the arts; statecraft and philosophy. The critic who has made each of these his life study is alone justified in undertaking a just estimate. Our law reports, the proceedings of the several bar associations, his published pamphlets—all too few—and the journals of the Legislature furnish but meager evidence of the real greatness of the lawyer, statesman, scholar and philosopher.

It may be a selfish thought—but only so in a Helvetian sense because it is in the interest of humanity—to think that one of the chief causes for regret, on occasions such as this, when we meet to memorialize one who has been gathered home ripe in years and rich in wisdom—it is a cause of regret, I say—that we, who live after, can but admire and imitate, and cannot become legatees of that vast store of learning which nature has decreed shall, in a large measure, pass on with him who amassed it.

In recent years those of us who knew Harry Bingham well —and for that reason loved him—were accustomed to refer to him, in his absence, as "the Grand Old Man," even as those who knew and admired Gladstone spoke of that distinguished scholar and statesman. But I doubt if any one were earlier impressed with the similarity of character and accomplishments than myself. As his office boy in my school days, and as student in later years, the "Judge," as we were wont to call him, was ever a visible example of all I had ever read of the other "Grand Old Man," over seas. And I am constrained to believe that strict adherence to principle which bound him to the minority in poli-

tics alone prevented his name and fame from being all in the new world that those of his illustrious prototpye were in the old.

His portrait looks down at me now as I write. The evidence of strength in his massive head and firmly set chin detracts nothing from the kindliness that beams from his large, soft, ox-like eye. The picture speaks to me of student days; it tells me of his quaint, original humor; it relates again his fund of anecdote and reminiscence; it reminds me of a natural sternness that was never unkindness—of an abruptness that was always a caution, but never a sting. I can see the gray-haired man at midnight, fenced in by a wall of books, heedless of time, or person, or circumstance, deaf to all inquiry, and blind to all views except the authority he was digesting. And I can see him again, in an hour of relaxation, seated at whist with his three students, his face agleam and his heart in the game. And among the many elements which must finally be considered in making a proper estimate of Harry Bingham's grand character, not the least will be the large number of students who have gone from his office to the bar, and there given evidence of his wisdom by their conduct, and there testified to their appreciation of him by their unswerving loyalty.

If I were to mention the characteristics which to my mind made him *facile princeps* among his brethren, I should place at the head of the list his great power of concentration and his remarkable memory. Of both of these, many instances, remarkable as well as pleasing to remember, recur to me; but they would be unfitting this time and place. Suffice it to say that I loved him, and, when I learned that nature had summoned him to his last, long sleep, while I felt keenly my personal loss, I could not refrain from feeling and expressing the greater calamity—"The world has lost a *man.*"

HON. LEWIS W. FLING OF BRISTOL.

[LETTER.]

Brother Mitchell: Yours, informing me of a meeting of the bar at Woodsville next Tuesday to consider the resolutions you presented to the court at Plymouth, upon the death of Judge Harry Bingham, came last evening, and I thank you for the no-

tice and for the invitation to speak before the court and bar, words in eulogy of our deceased friend and brother.

I should be glad to be present in body, but I, too, am old and the weather cold, the distance seems far, and I feel it would be safer for me to remain at home, but in spirit I shall surely be with you and one of you.

Of course I could say nothing new of Judge Bingham, and nothing that I could say would add anything to his fame as a man and brother.

I knew him for half a century; but I must not give details of personal reminiscence. In social life he was inimitable, and more could be said of interest on this line, to those who knew him well, than of any other man of my acquaintance. I can seem to see him now, as he came into court and took his seat in the bar; his lion-like face, his smile (he seldom laughed aloud), his close observance of all that was passing, his earnestness in debate, his pushing back his coat sleeves as he warmed up to the subject, his look at his antagonist, who was often Harry Hibbard or Judge Carpenter, Judge Bellows, Mr. Quincy, all great lawyers; but no matter who the foe was, whether of the New Hampshire bar or from another state, Harry Bingham was his peer, his equal, if not his superior.

Professionally, I know of nothing more apt or true than what was said on a like occasion of another great lawyer,—that he was of noble and dignified bearing and distinguished personal appearance and presence. A close and cogent reasoner, a lucid expresser, with a singular legal insight and mastery of legal principle, he was a friend to be loved, and an antagonist to be feared.

Thinking of the fame of a great lawyer, I am reminded of what ex-Governor Hubbard said in his eulogy of William Hungerford, printed in the 39th Conn. Reports: "And now, when I consider this long life closed—these many years ended of eminent labor in the highest ranks of the forum, and nothing left of it but a tolling bell, a handful of earth, and a passing tradition—I am reminded of the infelicity which attends the reputation of a great lawyer. To my thinking, the most vigorous brain work of the world is done in the ranks of our profession. The world accepts the work, but forgets the workers."

We shall never forget Harry Bingham; we shall turn to his great example as a lawyer for guidance and inspiration.

HON. JAMES W. REMICK OF LITTLETON.

I count it the most fortunate circumstance in my own brief and humble career at the bar that it was begun in the home town of those legal giants, Harry and George A. Bingham, and at a time when they were in the full strength and maturity of their power. The pleasure of self-conscious importance, which is sometimes the privilege of the young lawyer in a country community, was impossible in contact with these men. On the contrary, to such a one their towering eminence gave a depressing sense of insignificance and obscurity. In the shadow of their greatness, it was for him to be a sort of chore-boy in the profession. But for all the deprivations for which they were responsible, in the way of early recognition, youthful conceits, and adventitious success, they compensated a thousandfold by the lasting inspiration and helpfulness of their example and association.

A few years ago, upon an occasion similar to this, moved by a deep sense of obligation and respect, I paid my poor tribute to the memory of George A. Bingham. And upon this occasion, moved by the same spirit, I wish to record a word in honor of the elder brother, who, in the course of human destiny, has, in turn, passed to the mysterious beyond.

Never was maternal love more richly rewarded than in the birth and life of the brothers, Harry, George and Edward Bingham. Three sons, and every one a king among his fellows—kingly in stature, pose and step; kingly in eye, voice and gesture; kingly in mind, will and character. All majestic men, yet somehow, to the mother, to the brothers, to you and to me, Harry, the elder, the college graduate, the midnight student, the lone bachelor, stood unique and transcendent among them. George and Edward—distinctively, if not exclusively, lawyers. Harry—lawyer, statesman, scholar, sage and philosopher. As a lawyer, he was worthy to sit with the great men who adorn the Supreme Court of the United States. As a statesman, he belonged with those who, in earlier times, fashioned the republic and

wrote "The Federalist," and with the Edmunds, the Thurmans, and the Shermans of modern days. As a scholar and philosopher, he was a marvel to all who were admitted into his life of study and contemplation. For virility of mind, breadth of vision, and wealth of learning, he belonged to the highest classification.

In the last few years this association has mourned the loss of many great men; but, by common consent, we mourn today the greatest of them all. To this rank, those we have mourned before, assigned him, while they moved together in this world. In calling him first, therefore, we make no invidious distinction; we but recognize a preëminence which they acknowledged.

To those who find his measure in the offices he held, and the attention he attracted in the nation at large, our estimate may seem exaggerated. Indeed, his fame was in no way commensurate with his ability. This argues nothing against the latter.

Reputation, as has been well said, is "Oft won without merit and lost without deserving." It should not be confounded with character, nor political notoriety mistaken for true greatness. "The grasshoppers make the fields ring with their importunate chinks, while the great cattle chew the cud and are silent." By means of wealth, brazen self-assertion, political craftiness and snare-drum eloquence, hundreds of men are famous today, as so-called politicians and statesmen, who were not worthy to unloose the latchets of his shoes. Wealth, position and reputation are but the trappings of circumstance. The true test of a man is the measure and quality of his mind, heart and soul.

If my Brother Drew were elected United States senator tomorrow, it would add nothing to the superb qualities which so admirably fit him for that place. Harry Bingham was never a senator of the United States, but he was immeasurably greater than many who are, and no one will question that he was worthy to be. To deserve a high office is a dignity to which no man has attained who has simply secured it.

Those who, conscious of his power, stood by him in his last hours, and saw the great light fade and go out, may well ask, in view of the scant visible reward and apparent end of all, "What profit hath a man of all his labor?"

As a result of his work, Harry Bingham's mental horizon embraced the earth, and all planets and races and times. The

origin and development of man, civilization, and government were to him an open book. Sitting in his office, among the hills he loved so well, he could close his eyes and see the whole world as a panorama—as it was and as it is.

Suppose that death ends all; was not his capacity to hold communion with all that is and all that has been, source of infinite satisfaction and profit enough? But death does not end all. He still lives, at least in your lives and mine. By such individual endeavor, operating in invisible ways upon the generations, mankind has advanced and is still advancing. Is it not profit enough, when death comes, to know that we have contributed our most to this great forward movement? And finally, if, as we believe, death is but transition, who shall measure the eternal advantage of a life of noble and strenuous endeavor here?

HON. A. S. BATCHELLOR OF LITTLETON.

Mr. President:

It was Mr. Bingham's fortune to work out his career in an environment that set bounds to his reputation in no wise corresponding with his talents. He was the product of the intellectual and moral development of the historic Connecticut stock which had occupied the Connecticut River valley and had given character to a succession of generations on that fertile and prosperous domain. Out of this same region Salmon P. Chase and Thaddeus Stevens strode to the highest seats of power and prestige. Had it been fated that Harry Bingham should go out into a wider sphere of action—into a more central arena—as they did, he would have stood with them, by universal consent, as well as in fact, a peer among the ablest lawyers and the most potential statesmen of his time.

He was called to the bar in 1846 with a character well settled in the essential principles which dominated his after life. He kept high ideals always in view for his own guidance. His character was distinguished by a devout and patriotic mentality. His integrity was rock-ribbed. The political doctrines of his fathers were ingrained in him. His religious nature was congenital. His devotion to fundamental principles related to social order and human conduct was a conspicuous feature of his

stalwart manhood. He was at the same time an intensely practical man. He wasted no time or effort in pursuit of the unattainable. He was not unconscious of his own intellectual and moral strength—his ability to grapple with any of the concerns of government, with any of the questions of the learned in science and philosophy, and with any of the problems of life. He had the courage to undertake and the skill to accomplish the reduction of theories in administration and legislation,—however novel and unpromising, if actually sound and workable—into the concrete of actual affairs. In the severe curriculum of his professional life, however, he never subordinated the legitimate demands which belonged to an extensive, important and exacting clientage to the ulterior demands of interests or ambitions conflicting with an unalterable purpose to deserve high distinction as a jurist. Thus it was inevitable that he should compass the largest honors and the most substantial rewards; and to this end he devoted the incessant labors of a professional lifetime covering a period of more than half a century. In parallel with this professional duty and labor which he bore with steady purpose in all these years, he assumed large responsibilities in politics and indulged in extensive diversions in literature.

It is in compliance with suggestions from my brothers of this association that on this occasion, as my contribution to the memorials of Mr. Bingham, I attempt to treat in some measure of his relations to literature.

As a student of literature his individuality was notable. He read with system, with deliberation, with persistence and with well-defined purpose. He used books as means of recreation as well as instruments in serious business. At times when he could not advantageously employ himself in the duties of his profession, he almost invariably resorted to books, choosing from those of a lighter or a heavier quality accordingly as he was in need of mental rest and diversion, or in search of material with which to satisfy the requirements of some line of investigation, practical or theoretical. All the time that he devoted to books he divided between the critical perusal of the text and reflection upon that reading, accompanied by a systematic laying away in the recesses of his memory of all that he regarded as of possible value or use to him in the future. His domestic relations

permitted him to make his books his closest companions. Whether he might be engaged in the study of the literature of the law, or that of other departments of learning, he was oblivious to the passage of time, and it was the rule with him, rather than the exception, to continue thus occupied, without apparent weariness and without apparent flagging of interest, until he would be well into the small hours of the morning upon some work in philosophy, science, history, government or theology. This was no spasmodic or temporary manifestation of interest in literature. Probably no one who knew him well can remember when these were not the settled characteristics of his literary life. His knowledge under these habits became encyclopedic. His attainments were remarkable, as well in respect to their accuracy as in respect to their variety and extent. At the conclusion of any prolonged effort requiring continued and laborious absorption in his business he returned to these same sources of rest, recreation and mental recuperation. For these uses he did not despise the productions of the humorists, from Artemus Ward to Mark Twain, or the lighter grades of current literature and the novels of ephemeral character. Always having his acquisitions, gained in these various directions, well in hand, he was ready with apt quotations and effective illustrations to give his arguments and addresses a quality which added largely to their effectiveness before a court, a jury, or a general audience. He had examined to good purpose such a wide range of authors that auditors and readers have often been surprised at the freshness, as well as the aptness, of his illustrations drawn from unfamiliar sources. Many passages which we find in his writings under quotation marks cannot be located by the books of familiar abstracts. He drew directly from the storehouse of his memory and seldom resorted to these compilations of literary "ready reckoning."

It was inevitable that a style of writing under these methods and conditions would be developed peculiar to himself and individualized somewhat in conformity to his native cast of mind, the methods and directions of his early education, his social and business environment, the requirements of his professional work, and the character of his studies in the various departments of the literature in which he delved. He was master of a strong

idiomatic English. Not a little character was given to it by his familiarity with such great English classics as Shakespeare and the King James version of the Holy Scripture. His mind worked on straight lines. The larger part of his writings are argumentative, but a not infrequent employment of the *argumentum ad hominum,* as well as pointed and well-timed irony and invective, is observable in his speeches and writings. He was a thorough master of the principles of logic, and an adept in the most recondite and most effective methods of the logicians. He never failed to discover and expose the absence of sound logical structure and the existence of essential weakness in the positions of his opponents. It often transpired, however, that when he was compelled to a line of argument in which some sort of sophism was unavoidable, his skill and method in that form of dialectics were so effective that only the best equipped and most discerning opponents could make headway against him. He was strong in controversy. He flinched before no antagonists. He wielded a heavy battle-axe in every contest in which he entered. There was never any doubt as to the part which he had espoused or of his determination to win out in the end and to convince his opponent that whoever threw down the gauntlet before him must fight to the finish. A review of his life as a student and a writer would seem to be fairly susceptible of a division into two parts,— one being that of controversy, and the other that of philosophical production.

In the first fifteen years of his professional life he was more conspicuous as a rising practitioner, engaged in court contests and as an active leader in the politics of his section of the state, than as a devotee of literature.

He was not in youth and early manhood the beneficiary of adventitious aids from liberal patrimony, or social prominence in antecedents or surroundings. In the fifteen years from the date of his admission to the bar to the beginning of the Civil War he was constructing the foundation of personal influence and armoring himself in self-reliance. He had held no civil office of importance, and had contributed nothing which he regarded as of enduring quality in constructive literature, except as he was impressing his individuality and genius upon the system of law which was in process of development in the court re-

ports of adjudicated cases of the time of Parker, Gilchrist, Woods, Perley and Bell.

He delivered a Fourth of July oration in 1853, on an occasion and under circumstances which were not propitious for such an effort as would have best suited his methods, temperament and purpose, which were as a rule direct and serious in public speech.

He contributed controversial articles to the local and state papers in those years. They were of the offensive and defensive style and character which were appropriate to the political conditions under which he wrote. In these articles he dealt with persons and politics as if he were more interested in the penetrative efficiency of the projectiles than in the symmetry of the weapons.

In 1861 he entered upon a legislative career which occupied some part of almost every year of two distinct periods, the last ending in 1891.

It is within bounds to describe the earlier of these periods as one of intense political antagonism. Mr. Bingham had become an intellectual leader of his party. The journals of the Senate and House, informal reports, resolutions, and protests disclose his attitude towards the far-reaching issues then passing under fierce debate. In 1861 he reported and supported a protest against legislation which was proposed to give the Governor of the state new and extraordinary powers not duly restricted and guarded. This act was chapter 2409 of the Laws of 1861. While recognizing the urgency of the occasion and the necessity for adequate measures for the prosecution of the war, Mr. Bingham saw no reason for ignoring the ordinary precautions in legislation which common prudence dictates in safeguarding the public treasury, and in requiring every department of the state government to conform to constitutional limitations in administration and legislation, even in time of war. With statesmanlike foresight he discerned the tendency to extravagance and irresponsible exercise of executive power in this bill, which turned the executive department loose in the expenditure of the proceeds of a state loan practically at its discretion within the limit of one million dollars.

Mr. Bingham was returned to the Legislature each year from 1861 to 1865 inclusive.

These years were an epoch for the nation, for political parties, for the state, and for a vast multitude of individuals both in public life and private stations.

Mr. Bingham's record in the Legislature in this momentous exigency is straightforward, consistent and courageous. He stood unmoved by popular clamor, upon fixed principles which he regarded as adaptable and adequate to all the exigencies of government.

This is not the occasion for a discussion of the merits of his contention on public issues which were uppermost in the time of the war for the Union, and it will not be attempted in this connection.

In addition to the protest which is recorded in the Journal of the House for 1861, we find in the report of the minority of the committee on national affairs a series of resolutions which bear internal evidence of Mr. Bingham's authorship, although the record does not indicate that he was a member of the committee.

In 1862 the majority of the committee on national affairs presented a report, and a counter statement on the part of the minority accompanied it. Later, William L. Foster submitted his views separately. Mr. Bingham appears to have endorsed the principal minority report, and very likely was instrumental in its formulation. Later the majority, under the lead of James W. Patterson, offered amendments to their report and to that of Mr. Foster. Mr. Bingham's proposition to amend the report submitted by Mr. Foster further indicated his attitude on the questions presented for discussion by these several submissions of resolutions for the consideration of the House and the points on which he differed from Mr. Foster.

In 1863 he was, with John G. Sinclair, Thomas J. Smith, and William W. Bailey, a minority member of the committee on national affairs. Again a minority report was presented, undoubtedly of Mr. Bingham's construction.

At the July session in 1864 the views of the minority on national affairs were submitted in a preamble and resolutions by Mr. Bingham, Mr. Sinclair, Mr. Smith and Mr. Asa P. Cate. This was on the eve of the presidential election of that year, and the declaration, besides reiterating the doctrines set forth in

previous years, indicates clearly the position of the New Hampshire Democracy with regard to the possibility and desirability of negotiations for peace on the basis of a restored Union under the Constitution.

At the special session, which occurred in August following, perhaps the most strenuous of all the contests which were waged between the representatives of the two parties in the Legislature of this state in the war period, was precipitated by the proposed legislation to enable men who were in distant sections of the country in the military service in the federal army to vote at the front for electors of president and vice-president.

Mr. Bingham and his political associates strenuously opposed this measure as unconstitutional, as in bad policy, and as an entering wedge for practices which, continued and repeated in the future, would inevitably expose the civil power to unwarranted domination by ambitious and unprincipled commanders of the armies of the republic.

The governor of the state came into alignment with the Democracy in opposition to this measure, but the House in which the measure originated did not permit his veto measure to be received seasonably..

Upon the requisition of both houses the Supreme Court returned an opinion sustaining the validity of the law, notwithstanding the failure of the Governor to give it his approval, and notwithstanding his efforts to interpose a veto under circumstances which are now a matter of history.

The fiscal affairs of the state and the controversy between General Harriman and the officers of his regiment elicited formal statements from Mr. Bingham and Mr. Sinclair which were entered upon the record and make up a part of the story of the stirring events of that memorable session.

At the time of the June session, 1865, the war had been concluded, President Lincoln had been assassinated, Andrew Johnson had succeeded to the presidency, and the great questions of reconstruction were taking form in which they were destined to divide the people in several succeeding years of bitter controversy.

The committee on national affairs in the House of Representatives at this early date pronounced for an elective franchise,

based upon loyalty to the Constitution and Union, and recognizing and affirming the equality of all men before the law, and declared that, in the reorganization of the rebellious states, both justice and safety required that ample provision be made for the protection of the freedmen.

In a minority report Mr. Bingham, Mr. E. A. Hibbard joining with him, presented a series of resolutions which again stated Mr. Bingham's already well-known views on the constitutional relations of the federal government and the states, and clearly foreshadowed the position that his party would take with reference to the subject of reconstruction.

Although elected to the Legislature in 1868, Mr. Bingham did not take a seat in that body nor qualify as a member. His legislative career was not resumed until 1871.

In the ten years that followed the close of the war he was largely devoted to the demands of a law practice which was rapidly increasing, both in respect to its importance and volume. The reports of cases in the Supreme Court in a meager way indicate the intense labor and exhaustive investigation which he bestowed upon the cases with which he was identified.

He was also at the same time entering into relations with the national organization of his party as one of its most reliable coadjutors in management and one of its soundest authorities on questions of party doctrine and party principle.

Practically all the published literature that emanated from him in this decade related to law or politics. He assisted or was consulted in formulating all, or nearly all, the declarations of principle and policy in the state conventions of his party in New Hampshire; and he was in attendance at the national convention at New York in 1868 as national committee man, and was a member of the committee on resolutions in the Baltimore convention of 1872. In fact, he was always a member of the committee on resolutions in the national conventions in which he was a delegate, the later ones being those of 1880, 1884, and 1892.

A diverting incident in the political contentions of those days was Mr. Bingham's contribution to the controversy between Mr. Fogg and Mr. Chandler, which occupied public attention in 1868 and 1869. Mr. Sinclair had been brought into it by statements

to the effect that Mr. Fogg and Mr. Sinclair had been in secret consultation with reference to the possible nomination of Chief Justice Chase by the Democratic national convention of 1868. Mr. Bingham came to the defense of Mr. Sinclair in an article occupying a broadside in the *White Mountain Republic* of December 3, 1869. The gentler amenities of polemics do not characterize this article. It is one of those defenses which consist principally in carrying the war into the enemy's camp.

In the following winter his next formal discussion of current political issues appeared in his address as president of the Democratic convention, which enunciated a platform and presented candidates for the approaching March election. This may be regarded as the last chapter of his published papers in advocacy of the policies for which the Democracy stood in the reconstruction period.

At this point it may be pertinent to refer to the address of Mr. Bingham before the Granite State Club of Manchester, June 27, 1888, on "The Life and Democracy of John H. George." Mr. Bingham and Colonel George had been intimate political and personal friends in the three periods which antedated the historic change of front which the national Democracy executed in 1872. One of these would be the ante-war period from 1845 to 1860; the next, the war period; and the next, the reconstruction period. In a review of the political career of Colonel George, which was contemporary with that of Mr. Bingham, and in an exposition of the political principles entertained and advocated by the former, Mr. Bingham necessarily pursued a course in his narrative which was almost equivalent to an autobiography. Eighteen years after the termination of the so-called reconstruction period, Mr. Bingham was able to view the events of which he and his co-worker were a part, and the environment in which they waged their losing battles, from a wider perspective and with a better and cooler conception of the acts and motives of the contending parties. This biography of Colonel George must, for manifest reasons, be regarded as one of the most important and interesting of Mr. Bingham's contributions to contemporary biography and political history.

In 1876 he delivered a centennial address on the occasion of the celebration at Littleton of the one hundreth anniversary of

the Declaration of Independence. This address was to a considerable extent a philosophical treatment of the development of the federal government and a discussion of some of the present mischiefs apparent in the conditions which had recently resulted from notable changes in the organic law and in political methods. He dwelt with special emphasis upon the dangerous progress that was observable in the demoralization of the suffrage by the direct exercise of unlawful and even corrupt influences upon the voters.

A few years later he delivered two notable addresses which were afterwards published in pamphlet form, one in the spring of 1880, a Memorial Day address before Marshal Sanders Post, G. A. R., at Littleton, and the other the annual address in December, 1882, before the Grafton and Coös Bar Association at Lancaster.

These efforts were widely different, both in character and method. The former was a catholic, patriotic, and philosophical treatment of the results of the war, and an exposition of the position of high honor and deep responsibility which belonged to the great body of veterans whose valor had reëstablished the Union and placed the governmental structure upon enduring foundations for the future. The other address was upon the subject of "Certain Political Conditions and Tendencies which Imperil the Integrity and Independence of the Judiciary." This was an arraignment of the court, and a denunciation of its methods, as that tribunal was at that time constituted, and as its policy was then formulated and directed by its chief justice. He attributed the then existing conditions, both in the federal and state judiciary, to the encroachment of party politics within that sphere which belonged exclusively to an independent judiciary. He urged as a remedy that the bar assert itself in aggressive and effective opposition to these demoralizing political conditions and tendencies.

Mr. Bingham made a number of notable contributions to the literature of legal biography between 1880 and 1892. Among the prominent lawyers and judges as to whom he prepared extended memorials were Andrew Salter Woods, 1880; Gilman Marston and Nathaniel Wait Westgate, 1887; John Hatch George, 1888, and William Spencer Ladd, 1892. Mr. Bingham's

method in biography was to subordinate what are commonly made prominent as biographical dates, statistics, facts, and events in the career of his subject, and to devote most of his attention to character analysis and to the relations of his subject with important events and measures.

He was not an infrequent contributor to periodical literature. Among his more carefully prepared political essays might be mentioned an article in the *Manchester Union,* February 14, 1883, under the title "The Political Situation," and one in the *Riverside Magazine* of Concord, in 1890, on "The Issues at Stake," to which Senator Chandler contributed a reply in the same publication.

In the long contest which was maintained between the rival railroad systems in New Hampshire, occupying the attention of the Legislature and the courts from about 1870 to about 1890, Mr. Bingham was a conspicuous and potent factor. This most important epoch in the industrial, corporate, legislative, judicial, and political history of the state has its own literature, which is as important and interesting as it is voluminous. Mr. Bingham's elaborate and exhaustive argument on the "Hazen" bill and the "Atherton" bill, nominally before the railroad committee of the house in 1887, but really before almost the entire membership of the state government and the auxiliary forces, was one of the events of that remarkable session. Many of his most carefully prepared, most characteristic and most effective arguments on the railroad issues of those years were not reported for the press, or delivered by him in form for preservation. Others of his briefs and arguments in that litigation are printed in papers and pamphlets, but now buried in court files and the inmost recesses of other Lethean repositories. When an adequate history of the transition period in railroad affairs and railroad progress in New Hampshire is written, a competent and impartial historian cannot fail to accord Harry Bingham the part of a most efficient directive force in the strategic and forensic working out of the far-reaching conceptions and results embodied in the railroad unification now accomplished, not only in New Hampshire, but in the entire area of northern New England.

With but one intermission, from 1871 to 1891, Mr. Bingham

served continuously as a legislator in the House, in the Constitutional Convention (1876), or the Senate. In this twenty years his masterful powers in debate were repeatedly tested. He was chairman of the House judiciary committee in 1871 and 1874, the only two years of his service in which his party was in the ascendency, and at every other session at which he was a senator or representative he was a member of that committee. It is impossible to estimate the influence, both positive and negative, that he exerted in developing a sound, consistent and progressive system of statutory law.

He contributed formal and carefully prepared arguments, reports and drafts of bills (among which were those relating to the protection of the ballot from corrupt influences, including the so-called Australian ballot bill), to the proceedings of these bodies, and many of them, embodying, in several instances, the results of his best efforts in research and presentation, are lost for want of adequate reporting by the press, or his own failure to extend them in manuscript.

In any summary of these efforts mention should be made of his argument on the question of law raised by the contests between Proctor and Todd, and Priest and Head over seats in the senate in 1875; his argument against abolition of capital punishment in 1877; his argument in opposition to the opinion of the court as to the election of a United States senator in 1881; his discussion of questions of taxation, the constitution of the courts, the regulation of corporations, the consolidation of railroads and the concession of other powers and privileges to them; and, finally, his argument before the court and in the House of Representatives in 1891 on the duty of that tribunal and of the house in the exclusion of the so-called "if entitled" representatives-elect from seats in the House pending the organization of that body.

This should not be regarded as in any sense a complete or methodical résumé of even the more important forensic efforts and productions in the second period of his legislative career. It is, at best, but a brief and desultory attempt to call attention to the variety and extent of Mr. Bingham's labors in that field of his action and influence.

In the fifty years of his identification with the Democratic

party in constant and unvarying advancement from controlling local influence to extended national recognition, the organization encountered three transitional crises which were at least temporarily disastrous to all the rational hopes it could entertain for immediate accession to the control of a national administration.

These epochs were marked by the secession of the eleven states under the control of the southern wing of the party in 1860 and 1861—the change of front on national lines and the nomination of Mr. Greeley in 1872—and the startling revolution in party policy and party conduct which culminated in the Chicago convention of 1896.

Mr. Bingham refused to support any of the nominations for the presidency emanating from the national convention in 1860. He voted a ballot for electors bearing names which he selected for himself and which is unique in the town records for that election. He made no formal statement of his position at that time which has been preserved*

In the Greeley campaign he was a delegate to the Baltimore convention, advocated the new departure and cordially and unreservedly supported Mr. Greeley after he was accorded the Democratic nomination.

He was president of the Democratic state convention following the national convention, and on that occasion (Sept. 13, 1872) made an address singularly clear, straightforward and argumentative in support of the party ticket and the principles which had been formulated on the changed alignment of the two parties. This address was extensively circulated as a campaign document.

In the recasting of Democratic policy, according to the edicts of the convention of 1896, Mr. Bingham regarded its action as a radical and unjustifiable departure from the essential principles of genuine Democracy. He was president of the state

*In the presidential election of 1860 the Lincoln and Hamlin ticket for electors had a considerable plurality in Littleton. The next largest vote was for the Douglas and Johnson ticket. The Breckenridge and Lane ticket had a few votes, as did the so-called Union or Bell and Everett ticket. Mr. Bingham, however, preferred not to vote either of these tickets. He made one for electors to suit himself on which appeared the names of Franklin Pierce, Harry Hibbard, Jeremiah Blodgett, Nathaniel Swazey, and William Heywood. This ticket had only one vote in Littleton, and that was cast by Mr. Bingham.

Democratic convention in the spring, preceding the session of the national convention, and delivered a carefully prepared address in which he presented his views on the tariff, the currency, and other pending questions with conspicuous lucidity and directness. In the ensuing fall he presided at the convention of the national Democracy called in protest against the policy of accepting and endorsing the platform and candidates of the Chicago convention, and on this occasion delivered another characteristic, cogent and convincing address, taking as his theme, "The Present Duty of the Democracy."

These two addresses were published in one pamphlet, under the title, "Consistent Adherence to Democratic Principles," and extensively circulated in the campaign then pending. To these two statements recourse must be had for the evidence of the attitude and opinion of Mr. Bingham on the issues which were the result of the political upheaval of 1896—for his deliberate and unbiased judgment rendered at the termination of fifty years of party service, distinguished by unselfish loyalty, unfailing persistency and courage, and an intellectual primacy in leadership which find no parallel in the later history of the New Hampshire Democracy.

In the years that ensued between the termination of his legislative career in 1891 and his death in 1900, he withdrew himself gradually from the active duties of his profession and devoted his time largely to renewed research in such directions as would afford material for literary productions which he had long contemplated. He accomplished before 1898 all of these later undertakings that he had given himself to do. This work took the form of addresses and monographs, the dates and titles of which were as follows:

"The Muniments of Constitutional Liberty," address before the Grafton and Coös Bar Association at Berlin, Jan. 26, 1894.

"Progress in Asiatic Civilization and its Significance for the Western World," address before the same association at Littleton, Feb. 14, 1895.

"The Rights and Responsibilities of the United States in Reference to the International Relations of the Great Powers of Europe and the Lesser Republics of America," an address before Marshal Sanders Post, G. A. R., at Littleton, Dec. 26, 1895.

"The Welfare of the Republic, the Supreme Law," address before the Grafton and Coös Bar Association at Lancaster, Jan. 31, 1896.

"The Relations of Woman to the Progressive Civilization of the Age," an address before the Grafton and Coös Bar Association at Plymouth, Jan. 29, 1897.

"The Influence of Religion on Human Progress," address before the New Hampshire Historical Society, June 8, 1897.

"The Annexation of Hawaii; a Right and Duty," address before the Grafton and Coös Bar Association at Woodsville, Jan. 28, 1898.

These essays invite and challenge the most critical examination and analysis. They are already familiar to a limited circle of students and readers and to those who happened to be in attendance upon the occasions of their delivery by the author. The circumstances of this occasion do not permit a further review of the products of Mr. Bingham's labors in the domain of history, social science, education, religious progress, international relations, constitutional law and the science of government, but they will be accorded deserved recognition as a notable series of studies on great subjects, and, in the more serious discussions of the dominant questions of our time, as an invaluable deliverance of a master mind.

HON. HENRY W. BLAIR OF MANCHESTER.

Members of the Bar:

I had thought to remain silent longer, until those who in recent years have been more closely connected with Brother Bingham should have paid their tribute to his memory. But as there is a pause I will say the few words that occur to me at this time. I was unaware of these contemplated proceedings until within a few hours, and am consequently unable to appear before you at this time with matured thought or formal expression. Really one ought not to speak of Judge Bingham without some preparation. He was too unusual a man, too great a man; one cannot approach him casually, his real character and his life-work, and in a few unpremeditated phrases do him justice at all. It seems to me very much, your honor, like trying to analyze and explain

the Pyramids, to portray Harry Bingham, as he stood among his fellow men. Brother Aldrich has come nearer to what I would have been glad to have said myself, had I been able to do it, than any portrayal of his character that I have heard or read, but I will say that from my knowledge of him for more than forty years, I most thoroughly approve of these resolutions. They are just to him. They add nothing beyond what is his due, as I have known him, and I am glad to state now as my deliberate belief that in my life in many respects I have known no really greater man than Harry Bingham. I first recollect him in the year 1857 or 1858, when I was a student in the office of William Leverett of Plymouth. With his brother, George Bingham, who was also a great man, he came to Plymouth at that time to try the case of *Page* v. *Parkers,* for the defense. That case was the ruin of everybody connected with it but the lawyers. It lasted some ten or fifteen years. The Binghams were for the defense, and that other great firm of western Grafton County, the Rands, were for the plaintiff. As a student I attended the trial; not interested otherwise than as a student, but I got great benefit from listening to the gigantic forensic debates of that trial. Judge Bingham was then a man perhaps 38 or 40 years of age. To my youthful eyes he was one of the maturer members of the profession. He was then already eminent, at a time when the bar was certainly great, that of Grafton and Coös counties, the inferior to the bar of no portion of the state,—I think the superior of any other part of New Hampshire in its great lawyers at that time. In a few years he became proudly preëminent, not only among the lawyers of the north but of the entire commonwealth as I remember them,—all now passed away with but one or two exceptions. The only exception that I recollect, residing in our county, is Mr. Fling of Bristol, a most excellent lawyer himself and one of the keenest wits that ever graced the bar of any state or any country.

At that time in the same town was the Hon. N. B. Byrant, retired from practice at the present time, but I have never heard his superior before a jury, and I have heard Rufus Choate. I wouldn't say that he was as great a man as Choate in all respects, but I would allow Napoleon B. Bryant to face Rufus Choate before any New Hampshire or New England jury, and

I would risk my own cause with Mr. Bryant as readily as with that great man. Then at Plymouth was Mr. Burrows. Many of you will remember him. He was a learned lawyer, the student of Chancellor Hobbs of Carroll County, a strong, vigorous man who once was well known throughout the state. Mr. Leverett, with whom I was a student, was a descendant of the great lexicographer. He was a man of great natural powers of mind, a very careful and thorough student, not so laborious in the practice of his profession as some, but no discredit to the great lawyers of Grafton County at that time. He was the brother-in-law of Chief Justice Perley. Just then was passing away from New Hampshire Mr. William C. Thompson, a son of Thomas W. Thompson, one of the earlier senators of our state, and a man in whose office Daniel Webster was a long-time student. Josiah Quincy was then at the bar in Rumney, a man of very great executive ability and the most successful man of his time before juries. The way Josiah Quincy would put the strong points of a case to a jury was remarkable, and very seldom did he fail in securing his verdict. That time Judge Sargent, with whom Mr. Fling had studied, was still located at Wentworth. I had heard him in still earlier life, while a boy, living a few miles from the court room, in the great murder trial of Dudley at Plymouth in 1848 or 1849. He had been a very active practitioner, but at this time was just appointed to the bench. He was still well known as a practitioner and essentially was still a member of the bar. There was Mr. Weeks of Canaan, a relative of Judge Doe by marriage, and a great man, though not a showy lawyer. There was Mr. Blaisdell of Hanover, one of the courtliest gentlemen who ever appeared before courts or juries. There were great men at Haverhill. There was Lawyer Felton, who had no superior in his knowledge of the common law, and especially of real estate. Going further north there were great lawyers at Bath. There was Harry Hibbard, probably the best *belle lettre* scholar that ever belonged to the New Hampshire bar. There have been no exceptions so far as I have known personally, unless it might be his compeer, Chief Justice Carpenter, who so recently left us. Both were remarkable men in their general scholarship. Judge Carpenter I often met at his lodging while attending court at Plymouth or at Haverhill, after midnight,

and would find him resting himself from the labors of the day by reading the classics in some modern or ancient tongue. He was familiar with the Spanish, the German, the French, and the Italian, and knew Greek and Latin as well almost as he did the English, and he always said that Hibbard was his superior. I have always thought that probably Mr. Hibbard was the superior of Judge Carpenter in the embellishments of education, but as an all-round educated lawyer and general scholar I think we have never had the superior of Judge Carpenter in New Hampshire.

Then there were the two Rands. The most brilliant advocate of Northern New Hampshire, I think, was Mr. Edward Rand. He was exceedingly powerful and vigorous and had a noble voice that resounded through the court room. I can hear it in memory now, as he poured forth the natural eloquence with which his being was subcharged and enforced the various propositions of his case. No one could forget Ned Rand. His brother Charles was a great man, too, not so great in the presentation of causes, but he could cross-examine witnesses most marvelously, and could prepare a case as well as any one. The firm was a very difficult and powerful one with which to compete.

Then we come to Littleton where the Binghams then lived. Harry was undoubtedly the greater, the stronger man of the two. That could be no discredit to his exceedingly able brother, afterwards a very eminent jurist, and who possessed valuable capacities not so marked in Harry, because you can say that of Harry Bingham that you cannot say of any other man who has practised at the bar of New Hampshire in my day, if my judgment can be relied upon. I looked upon Harry Bingham as on the whole the greatest man that I knew at the bar. I have never compared him with Judge Doe because I never knew Judge Doe at the bar. I have come to look upon Judge Doe as the inferior of no jurist whatever who has lived on American soil in native strength and vigor of intellect, in the disposition and determination to be right regardless of precedent, always to be right. I think he was one of the very greatest minds that has been produced upon American soil. As an all-round man, as a great lawyer, as a man who upon the bench would have been a great and a very great judge, I am inclined to think that Harry

Bingham stands and will live in the very first rank of the jurists of New Hampshire, and in the first rank, if it were so that he could be compared with them, of the jurists of America. He was from Vermont. I wish we could claim him as a son of New Hampshire, but we have done something for Vermont. And the two states are sisters. They have given to us a great deal of superior legal ability and of sterling manhood, and among all her contributions to New Hampshire or to both states, and to this jurisprudence, to eminence in legal ability and a high and excellent example to those who are to come after us, I think no man has set a higher standard than Harry Bingham of Vermont and of New Hampshire, of whom both states and the whole country, too, may well be proud. My knowledge of Judge Bingham during these later years has been principally that of one who has been largely himself outside the profession, but still observant of general affairs. Mr. Bingham was larger than his profession. I have known few men who thought more profoundly upon the great topics of the time than Mr. Bingham. He was learned. He went to the root of the matter, and while one might not always agree with him, and he was pertinacious and determined in adhering to his own opinions, one could never fail to respect the sterling integrity, the manliness of the man. I do not believe that Harry Bingham ever laid down a proposition in politics or in law that he did not at the time believe himself. If he might not have believed it under other circumstances, if the exigencies of his cause required that for the interests of his client or of his case a certain line of propositions should be the truth, there was that in his mind which for the time being at least enabled him to believe it, for the benefit of his client if for no other reason; but whenever the adventitious circumstances which affected the immediate cause under consideration were not present, when any great subject was presented to his mind and it was essential that he should come to a correct conclusion, viewing the whole situation, Mr. Bingham then was capable of rising above the exigencies of common affairs and the particular case that might be in question. Then he took a broad, comprehensive and profound view of political philosophy and of human affairs.

It is true that Judge Bingham was not identified with the

dominant political party of his state nor of his country, but he adhered to the great fundamental principles of Democracy in its highest and best sense, and he was conscientiously devoted to it. If he came in these later years not to agree fully with the party to which he had been formally attached and with the leadership of which he had been so intimately connected for so many years, still I think Mr. Bingham was to the last a most thoroughly conscientious man in political opinion and in political action. I think, whether we agree with him or not in sentiment, we all can say, now that this great man is no more, that he was a most sincere and honest and noble man.

I would gladly pay some suitable tribute to Harry Bingham. With more of consideration, more of time to have analyzed his qualities and to have dwelt upon the real public service which he rendered, I should have been glad to have said more to the court and to these gentlemen at the bar, with so few of whom I am now intimately acquainted; but I do think that among all the great men of the state with whom I have been to some extent associated, and of most of whom, if not so much personally acquainted, I have had opportunities of observation, for real, genuine, native, original strength of mind, for power to grasp and tear to tatters if need be, in analytical and constructive force, Harry Bingham was the inferior of no man with whom I have been acquainted, and I gladly pay this slight, halting and feeble tribute to his memory. I would do him full justice, but of that I do not feel myself to be capable. As he approached the close of life, as I have known him, he was a well-ripened old man, yet never lacking in vigor to the very last. I respected that logic and vigorous power of intellect up to my very last communication with him.

I saw him in Washington a few years since when he was on his way to Florida. He was then in his most genial mood. We discussed the events of our mutual lifetime. He remembered me as a youth at the bar. I remembered him always as a legal giant and a sage, and a very active one, in my early professional career. He was full of reminiscence,—a most kindly old gentleman he was. He seemed to have nothing but the milk of human kindness for any and for all. Whatever of bitterness there had been in earlier contests between him and his brethren in the

strenuous and athletic exercises of those days had all passed away. He seemed to look upon mankind and upon the beloved old state and the men who were strong in it with a feeling of the utmost kindness, and to judge everybody with a charity and with a justice that was most beautiful and becoming. I shall always remember that final interview between myself and Harry Bingham at Washington as one of the choicest recollections of my life.

There is an expression of the poet upon Sheridan that comes to my mind as well worthy of Judge Bingham:

> Long shall we seek his likeness,
> Long in vain, and turn to all
> That may remain,

sighing that Nature formed but one such man and broke the die in molding—Judge Bingham.

This great light of our Northern bar was more than a lawyer; he was a statesman and a philosopher. I believe, your honor, that his memory will live long after the great mass of the profession, the great mass of the people of the state, shall have passed into oblivion. There was that in him that will survive, and as a great and good man I am glad of this opportunity to pay this humble tribute to the memory of Harry Bingham.

HON. CHESTER B. JORDAN OF LANCASTER.

May it please the Court: Members of the Bar:

When I came here today I thought I could better pay my tribute of respect to the memory and the character of Judge Bingham by my mute presence than otherwise. But it has seemed fitting that I should say a word. I know you all believe I am willing to, if it is thought necessary or best, because there are none of us who knew Judge Bingham as well as most of us here did know him who are not willing to pour out the libations of our souls, which have been deeply touched by his death, upon the altar of affection. While what I may say may contain neither music, nor poetry, nor rhythm, nor study, nor preparation, yet the tribute will be none the less heartfelt and sincere.

As has been said just now by my Brother Page, there is little that need be said, because the analysis of Judge Bingham's life and character was summed up and completely put before us by

Judge Aldrich; and the other side—the tender, personal side—was most touchingly stated by this friend and bosom companion of the Judge's for thirty years, my Brother Mitchell; and these other gentlemen have followed him in the same tender, persuasive way, so there is nothing for me to say. And yet there is no man who has died in New Hampshire within my recollection of whom so much could be said, truthfully be said, so much of good, so much of greatness, so much of grandeur of character, the manliness of the man, as Senator Blair has so well stated, as of Judge Bingham. His fame is not confined to New Hampshire, not confined to the legal profession. No one can read his essay on the character of woman without having a more exalted opinion of women, of the woman who gave him birth, and of all her sisters throughout the range of the whole universe. No one can read the address that he gave us at our Bar Association in the time of the Venezuelan trouble without coming to the conclusion that he was a great statesman. He knew the fundamental principles upon which our fathers builded this magnificent structure. He knew how to maintain that structure, how to perpetuate the institutions which have grown up under the old flag and have come down to us to bless not only us but the whole world. No one can read his essay on the Christian religion, be he atheist, be he sceptic, or what he will, without knowing that Harry Bingham believed in the divinity of Christ; believed in an Almighty God, and that there was a destiny, call it what you may, that is over men and the affairs of men, and that it behooves every one to have the white stone with the new name written in it. It sweetened his life and made a difference here, if it makes no difference hereafter. So I say, your honor, that as we not only listened to Harry Bingham, but as we have perused his works and got somewhat into the chambers of his memory and knew how he felt when he sat down to meditate, we have come to have a more exalted and a more noble idea of the methods that he pursued, and the trend of that great mind.

I had known something of Harry Bingham before I came to Lancaster, a third of a century ago. He happened to come up into the North Country, and his name even then was upon the tongues of the prominent men. My friend, Brother Drew's father, used to worship at the shrine of Harry Bingham long ago.

I made some inquiries about him. My lot was cast with a family when I was teaching in Stratford that knew something of Harry Bingham and the Bingham family. They were remote relatives on the Wheeler side, and they were brilliant people. I came to understand that Harry Bingham was well born. A man who is well born is more than half made. His future is more than half assured. So I followed him along and for myself realized what manner of man he was.

I was up at Brunswick Springs a good many years ago spending Sunday, and I found there Harry Bingham, George A. Bingham, Edward F. Bingham. Edward was the youngest, and the only one now living. He had come there from Ohio, where he had been seventeen years a judge. He is now in Washington. He was made chief justice of the Supreme Court in the District of Columbia, under the appointment of Grover Cleveland. Those three men were there, and after they had got their breakfast they came out, and I think the Judge had the old mare and a Concord wagon, and that old carpet was hanging out the rear end of it,—as you have seen it,—and they got in. I sat there on the porch and wondered at that load of freight—whether that old mare could draw them. I never before saw, I never expect to see again, such a load of brains and of human freight, such a valuable load drawn by one horse, as I then saw disappear around the hill.

I am not going to talk about Harry Bingham as a lawyer. You all know more about him as a lawyer than I do. Judge Jeremiah Smith told me this instance of Harry Bingham's greatness. We were discussing it years ago. He said after he went off the bench and had got his health somewhat, he was employed in an admiralty case. It was new to him; he hadn't had much practice in that branch of the law. He went down to Boston and spent some time in the Social Library studying up the question. It was an important case; great interests were involved. He couldn't quite tell where he was going to land. He found that Harry Bingham was in Boston, searched him out, and went to see him. He said he could see as he laid the case open to Mr. Bingham that he hadn't ever considered the question, that is, not through books. After he had told him the case the Judge for fifteen or twenty minutes said not a word. By and by those

eyes began to turn in their orbits as the soul began to think and light them up, and the brain began to move, reminding one of the heavenly bodies as they twinkle and flash and then shine out in an effulgence difficult to gaze upon. He began to talk, and step by step went on and laid out the case from the very foundations, from his own inborn and acquired knowledge of the principles that govern not only the law but the universe. I believe Judge Smith finally won his case on the lines then discussed.

The gentlemen here, Mr. Batchellor and Mr. Mitchell, I remember were before me in a case thirty years ago at Franconia, with Judge Harry Bingham and Judge George A. Bingham, and they too know all about this man as a lawyer.

I have always had great admiration and great respect for him, and I never came into his presence without feeling that I was in the presence of a great man, and if I had any hat on I wanted to remove it; I wanted to make my bow to brains. I went down to see the Judge only three weeks before he died. The calm patience, the fortitude, the heroism, with which he sat there and gazed into the future commanded my attention and arrested my thought. There he was, afflicted but uncomplaining, without the tender hand of wife to bathe his brow, nor the velvet touch of daughter, nor the charming interest of son; yet he sat uncomplaining, and every want seemed to be fulfilled by these good friends who attended him all the last years of his life, and when my Brother Batchellor suggested to him that he had better let him or someone come up and read a few words to him day by day, he replied, "No, Batch, you need not do it. A man in my situation had better meditate and reflect." And such was Harry Bingham, and so he died.

Bravely, heroically, honestly, manfully, he waited for him whose footfalls are noiseless, whose form is invisible, but whose coming to all is sure and certain.

REPLY OF THE COURT.

HON. ROBERT M. WALLACE, JUSTICE.

Gentlemen of the Bar:

The court receives the just and appropriate memorial of Mr. Bingham with the same appreciation of his character and life

which are expressed therein, and with full concurrence in the sentiments of the eloquent and affectionate tributes of the bar to his memory.

The time-honored custom of this bar in commemorating the worth and characteristics of deceased members seems especially appropriate where, as in this case, a great and distinguished member has gone. It is well for us all to pause in the midst of our various duties and contemplate his life and all that was grand and beautiful in his character, and pay a proper tribute to his memory. It is especially fitting that this tribute should be in this county, which was the main field of his professional efforts, and where he was best known and esteemed.

The observance of this custom is of the greatest benefit; it brings afresh to our minds the excellent qualities and the strong points in the character of our deceased friend, and stimulates us to emulate them. When this custom ceases, and indifference is felt by the profession as to the lives and qualities of their noble predecessors, then may we confidently expect a decadence in the quality of the membership of the bar.

Mr. Bingham was a remarkable man, as a citizen, lawyer, legislator and author. His personality gave him a commanding influence with the people of the state and attracted to him warm personal friends. He was a strong character, an independent thinker, with the ability and courage to forcibly express his views. He came of good old New England stock. He had the New England characteristics, uncompromising conscience, sincerity, independence, common sense and steadfastness of purpose. As a young man when he began the practice of his profession in this county he was surrounded by and brought in contact with the strong and able lawyers for which the bar of Coös and Grafton has ever been noted. But against such antagonists he early brought himself to the highest rank in his profession. That position he maintained throughout all his professional career. He was engaged in most of the important cases in this part of the state for nearly half a century, besides having many important cases elsewhere. He presented that rare combination of the great advocate and profound lawyer united in one person. His ability to grasp the few salient points of a case and his power of statement in plain, terse and vigorous English, made him a

master of the art of marshalling facts and a most effective advocate in a jury trial. In the discussion of a legal question, his great power of analysis, and his directness of thought and speech illuminated and made plain the most complex and abstruse legal proposition.

While in one view it is to be regretted that on account of political reasons the state was prevented from availing itself of Mr. Bingham's services in other and wider fields where his commanding ability would have been so serviceable, yet in another view this is not to be regretted, because by reason of this fact the state was able for many years to have his valuable services here at home in the state Legislature. There his incorruptible character and his ability have been of incalculable benefit, both in the kind of legislation he has been instrumental in enacting, and also in the kind of legislation whose enactment he has prevented. For this same reason, Mr. Bingham has been enabled to devote his life almost exclusively to his profession. It was largely through his profession and by means of it that he was able to render the greatest public service. As a legal practitioner he presented the highest type of his profession.

He was thoroughly democratic in all his tastes. His ways of life were plain and simple. There was both a grandeur and a simplicity to his character that was very attractive. His townspeople loved and trusted him. He was an American citizen of the best type, able to fill with credit the highest offices under our government, yet scrupulously careful to perform the humblest duties of a citizen.

"Well may we mourn him,
Well may we emulate his virtues."

The resolutions will be entered upon the records of the court, agreeably to the request of the bar, and as a mark of respect to the memory of our deceased brother, this court will now adjourn.

POLITICAL WRITINGS.

Harry Bingham's life work was the practice of law; honorable success at the bar and recognized superiority as a legal counselor his highest ambition, to the attainment of which he gave the best at his command in thought, in study and in effort. In his devotion to his profession, however, he never forgot the obligations of citizenship, nor neglected its duties, preëminent among which, to his mind, was loyal service of the Democratic party, in whose tenets he had been reared and whose principles he cherished and defended with all the fervor of a religious devotee.

He was, therefore, naturally interested in the movement which resulted in the establishment of a Democratic newspaper in the town of Littleton, in the summer of 1852, by Francis A. Eastman,* and, along with Col. Cyrus Eastman† of that town and

*Francis A. Eastman was born in Littleton, April 3, 1833. He learned the printer's trade in the office of the *Granite State Whig*, at Lebanon, and started the *Ammonoosuc Reporter* in Littleton when nineteen years of age. Leaving Littleton in 1854 he was engaged for a time on the *New Hampshire Patriot* at Concord, serving meanwhile as an aide on the staff of Gov. Nathaniel B. Baker. Subsequently he became editor of the *Vermont Patriot* at Montpelier, but went West in 1857, and was for two years editor of the *Daily News*, Milwaukee, Wis. At the instance of Stephen A. Douglas he removed in 1859 to Chicago and took a position as associate editor of the *Chicago Times*. Two years later he aided in establishing the *Morning Post*, a Democratic paper sustaining the administration in the prosecution of the war for the Union, which paper subsequently became the *Inter-Ocean*. Shortly after the opening of the war, Colonel Eastman became a Republican, and was soon called into public life. He was for a time collector of the Northern District of Chicago; was for two years a member of the lower branch of the Legislature and four years a state senator. He was a penitentiary commissioner, under the state government, and one of the builders of the great Joliet prison. He was the first man appointed to office by President Grant, being named by him as postmaster of Chicago, which office he held four years. Suffering serious loss in the great Chicago fire, he returned to journalism and was for some years editor of the *Press*, at Utica, N. Y., removing thence, in 1886, to Los Angeles, Cal.

†Cyrus Eastman, born in Danville, Vt., November 15, 1814, settled in Littleton in 1836, and engaged in trade as a general merchant. He became a leading citizen and was prominent in public affairs, as a Demo-

Hon. John G. Sinclair of Bethlehem, promised the young publisher such substantial support as might be required, to the extent of his ability, the contribution of matter for publication being one thing expected of Mr. Bingham. That this expectation was fairly met is apparent from consultation of the files of the paper, which was known as the *Ammonoosuc Reporter*, and its successor, the *White Mountain Banner*, from the establishment of the former, in 1852, till the discontinuance of the latter, in 1859. Articles manifestly from his pen appeared occasionally in the form of communications and, not infrequently, as editorial, the language employed being at all times plain, positive, vigorous and direct, without any attempt at rhetorical embellishment, very much after the manner of his addresses to the jury, and leaving no doubt as to his meaning in any case.

One of the first articles from his pen, commanding attention, was a communication appearing in the *Reporter* in December, 1852, during the session of the Legislature, taking decided ground against a measure which had been introduced, authorizing the union of certain railroad corporations and the guaranteeing of railroad bonds by towns through whose territory their lines might pass. This was vigorously in line with the traditional Democratic policy of hostility to the increase of corporate power and influence, and was given point and emphasis, undoubtedly, by the financial distress that the building of the old Boston, Concord & Montreal, and the White Mountain road, then barely completed to Littleton, had brought to many citizens of that section of the state. The position was taken that individual enterprise should be depended upon for all such improvements and neither towns nor the state should assume any part of the burden in carrying them forward.

In the *Reporter* of February 26, 1853, just preceding the annual town and state election (the two coming together in those days), there appeared a long and earnest address to the Demo-

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crat. He was a member of the executive council in 1859, a representative from Littleton in the Legislature of 1871 and 1872, and a delegate to the Constitutional Convention of 1876. He also served as postmaster eight years, under the administration of Presidents Polk and Pierce. He was active in the old state militia, and was colonel of the Thirty-Second Regiment from 1844 till 1848. He died in Littleton, March 31, 1896.

cratic voters of Littleton, signed by Ebenezer Eastman,* chairman of the Democratic town committee, but generally understood to have been mainly the work of Mr. Bingham. The importance of the impending election was set forth in vivid terms. It was characterized as a crisis in the history of the town, which, in all probability, would settle its political status for a long time to come. It was urged that no man in Littleton with a drop of Democratic blood in his veins could afford to be slumbering or indifferent at such a time. Reference was made to the brilliant success of the party in the presidential campaign, then but recently ended, whereby the gifted son of New Hampshire, Franklin Pierce, had been triumphantly elected to the highest office in the people's gift, and it was asked: "With such a bright example before our eyes, with these recollections so fresh in our memories, can we fail in doing our duty and our whole duty?" The history of the two great parties—Democratic and Whig—was tersely reviewed, from the days of Jefferson and Adams down to those of Pierce and Scott; the victories of Democracy set forth as national triumphs and the course of the opposition party as one of unrelenting hostility to the nation's best interests, and to all measures calculated to promote the national prosperity and to establish the national honor. All were urged to be on their guard against the tricks and devices of the enemy, to be misled by none of their specious arguments and false pretenses, to attend the caucus, nominate good and true men for office, and then stand solidly to the last man in their support.

An ardent admirer and staunch supporter of Gen. Franklin Pierce, who had been elected president in 1852 by an overwhelming majority, after a campaign characterized by unusual excitement, during which he had been greatly abused and vilified by the opposition press, Mr. Bingham believed it to be the duty of the party to sustain and defend the administration of its successful candidate, and he was found using his pen with vigor to that end. A strong, yet candid, editorial, in the *Reporter* of

*Ebenezer Eastman, an elder brother of Col. Cyrus Eastman, born in Danville, Vt., June 15, 1804, removed to Littleton in 1842, and went into partnership with his brother, in mercantile business. He was an estimable citizen and an active Democrat, serving his party faithfully and seeking no office, but was a delegate from Littleton in the Constitutional Convention of 1850. He died October 5, 1872.

August 27, 1853, manifestly from such source, reviewed the progress of the administration up to that time, showing the results to have been, so far, a complete fulfilment of the predictions of his enthusiastic supporters, in that he — President Pierce — had commanded the approbation of reasonable men of all parties for his dignified and statesmanlike bearing, as well as his oratorical powers; his sagacity and tact in the work of composing factional and sectional differences in his party; his ardent patriotism and his thorough Americanism, as evidenced in his instructions to those representing the United States at foreign capitals. This success, it was asserted, gratifying as it was, was no surprise to the Democrats of New Hampshire, who had known General Pierce long and well, and were entirely conversant with his character and abilities.

Again, in November of the same year, Mr. Bingham found occasion, in another editorial, to apply a sharp "castigation" to the Hon. Edmund Burke* of Newport, who, in *The Old Guard*

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*Edmund Burke, born in Westminster, Vt., January 23, 1809, died in Newport, N. H., January 25, 1882. Mr. Burke studied law with Hon. William C. Bradley of Westminster, one of the most distinguished lawyers of Vermont, and commenced practice immediately after admission to the bar, at the age of 21 years, in the town of Colebrook in this state, but soon removed to Whitefield, where he continued in practice three years, removing to Claremont in the fall of 1833, where, in addition to legal practice, he assumed the editorship of a new Democratic paper, the *Argus*, just established. A year later he removed with the paper to Newport, where, soon after, the *Spectator*, then published there, was united with it, under his editorial direction, which continued for several years, his editorial work commanding wide recognition for its ability. In March, 1839, he was elected a member of the National House of Representatives for the 26th Congress, and was twice reëlected, serving with great distinction, and making a record for ability surpassed by that of no man from the state in that body. Subsequently he served four years as Commissioner of Patents, under the administration of James K. Polk, and was for a year following an associate editor of the *Washington Union*, then the leading Democratic newspaper of the country. Returning to New Hampshire he resumed his profession; but was largely engaged in patent law practice, being associated with Boston and New York firms. He was a delegate from New Hampshire to the National Democratic Convention in Baltimore, in 1844, which nominated James K. Polk for the presidency, and to that in the same city, in 1852, which named Gen. Franklin Pierce for the same position. To the wide acquaintance and powerful influence of Mr. Burke with leading Democrats, particularly from the South, and to his quiet and judicious work while his colleagues of the New Hampshire delegation were doing the "shouting," the nomination of General Pierce was actually due. Indeed, as a matter of fact, Mr. Burke himself might have had the Southern support, and was urged to allow the use of his name, but

newspaper was violently assailing the administration and some of its supporters in this state, whom he was wont to characterize as the "Concord Ring."

In the issue of the *Reporter* for the first week in March, 1854, an election being then again pending, he appealed earnestly to the voters to rally to the support of President Pierce by aiding in the choice of a Legislature which should elect two Democrats to the United States Senate, particular stress being laid upon the necessity of "adhering to the settled usages and abiding by the nominations of the party."

During the year 1854, and the winter following, there was considerable excitement in political circles in the state. The old Whig party was on the point of disintegration and the American, or "Know Nothing" party, as it was generally called, which, in 1856, took the name of "Republican," was in process of organization, and came to the front with a full ticket for the people's suffrages at the March election in 1855, the same being headed

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peremptorily refused, insisting upon General Pierce's nomination. Yet a coterie of ambitious men in the Democratic party in the state, who were "close" to General Pierce, thinking it to be to their own advantage to discredit Mr. Burke in his estimation, succeeded in making him believe that he had been unfaithful to his interests and had really conspired to accomplish his defeat. He therefore turned the cold shoulder upon his former friend, and the man of all others who had made his nomination possible, and refused him any recognition or consideration after the election. To a man of Mr. Burke's proud and sensitive nature such ingratitude was unpardonable. It made him a sharp critic of the Pierce administration, and finally impelled him to participate in the "Know Nothing" movement which overturned the Democratic party in the state. He was too firmly grounded in Democratic principles, however, to continue long "outside the fold," and upon the retirement of General Pierce from the presidency he renewed his old time allegiance to the party, though supporting Breckenridge rather than Douglas for the Presidency in 1860. He became intimate with Mr. Bingham during the candidacy of the latter for Congress in 1867, and a strong friendship grew up between them, which was still more closely cemented by their association as counsel in important railroad litigation in later years, when they were employed by the late John H. Pearson in his famous Concord railroad controversy. Although an able lawyer, a statesman of broad views and a student in many fields of research, Mr. Burke's chief distinction was for his ability as a political writer, and his series of essays on the tariff, over the signature of "Bundlecund," appearing in the *Washington Union*, and subsequently republished in pamphlet form and widely circulated, constitute the clearest and most exhaustive exposure of the fallacies of the protective system, as viewed from the Democratic standpoint, that has ever appeared in print, and did more to determine and establish the tariff policy of the Democratic party, than was ever done by the pen or voice of any other man.

by Ralph Metcalf* for governor and James Pike,† Mason W. Tappan‡ and Aaron H. Cragin§ for members of Congress from the three districts then existing. The *Reporter* took part in the controversies incident to the campaign, and Mr. Bingham contributed some sharp articles to its columns, scoring the platform and candidates of the new party in vigorous terms, and particularly contrasting the respective merits and qualifications of the rival candidates for Congress in the Third District—

*Ralph Metcalf, born in Charlestown, November 21, 1798, graduated at Dartmouth College in the class of 1823. He studied law and was admitted to the bar in 1826. He practised two years in Newport and two years in Binghamton, N. Y. Returning to this state he located in Claremont but was soon chosen secretary of state, holding the office from 1831 to 1838. He was a clerk in the Treasury Department at Washington from 1838 to 1840, when he resigned and returned to New Hampshire, engaging in legal practice at Plymouth, but soon removed to Newport, where he continued through life. He was register of probate for Sullivan County from 1845 to 1851, and chairman of the commission appointed to revise the statutes of the state in 1852. He served in the Legislature in 1852–'53, and in 1855 received the nomination of the Know-Nothing or American party for Governor, after the death of Rev. John Moore of Concord, who had been first named. He was elected and reëlected by the Legislature the following year, there being no choice by the people. He died August 26, 1858.

†James Pike, born in Salisbury, Mass., November 10, 1818, died in Newfields, N. H., July 27, 1895. He was a Methodist preacher long prominent in the New Hampshire conference, having been ordained a deacon at Claremont in 1845. He was made presiding elder of the Dover District in 1853, and in 1855 was elected to Congress, serving four years. He commanded the Sixteenth New Hampshire Regiment in the Civil War, and at its close returned to the ministry, serving as presiding elder in all the New Hampshire districts, and as pastor at

‡Mason W. Tappan, born in Newport, October 20, 1817, died at Bradford, October 24, 1886. He was educated at Hopkinton and Kimball Union Academies, studied law with Judge George W. Nesmith at Franklin, and commenced practice at Bradford in 1841, where he resided till death. He was an ardent Free Soiler in politics. He represented Bradford in the Legislature in 1853–'55, and in the latter year was elected to Congress by the Know-Nothing or American, subsequently the Republican, party, continuing six years. He commanded the First New Hampshire Volunteers in the Civil War and was attorney-general of New Hampshire from 1876 till his death. Dartmouth College gave him the honorary degree of A. M. in 1860.

§Aaron H. Cragin, born in Weston, Vt., February 3, 1821, died at Washington, D. C., May 10, 1888. He received a common school education; studied law, was admitted to the bar in Albany, N. Y., in 1847 and immediately located in practice at Lebanon. He represented the town in the Legislature from 1852 to 1855, when he was elected to Congress, serving four years. He was a delegate in the Republican Convention at Chicago in 1860. He was a United States senator from New Hampshire two terms, from 1865 to 1877, serving as chairman of the committee on naval affairs the last term.

Mr. Cragin and William P. Wheeler* of Keene, the Democratic nominee.

The election resulted in the complete triumph of the "Know Nothing," or American party, so called, its candidates for Governor and members of Congress, as well as a majority in both branches of the Legislature, being elected. When the Legislature assembled a sweeping overturn was effected in all departments of the government. John L. Hadley† was succeeded as secretary of state by Lemuel N. Pattee,‡ and Walter Harriman,§

*William P. Wheeler, born in Croydon, July 31, 1812, died in Keene in 1876. He was educated at the academies in Newport and Meriden, studied law with Phineas Handerson of Keene and at the Harvard Law School, was admitted to the bar in 1842, and commenced practice in Keene, where he continued through life, being for many years associated with Francis A. Faulkner. He was a brilliant advocate, and pronounced by Judge Jeremiah Smith the best cross-examiner he ever heard. He was solicitor for Cheshire County for ten years, from 1845, and the Democratic candidate for Congress in the Third District in 1855 and 1857. Dartmouth College conferred on him the honorary degree of A. M. in 1852, and LL. D. in 1872.

†John Langdon Hadley, born in Weare, February 19, 1810, died in that town January 17, 1892. He represented his town in the Legislature in 1834-'38 and in 1846-48, having meanwhile served four years as register of deeds for Hillsborough County. He was a member of the executive council in 1849 and 1850, and in the latter year was chosen secretary of state, serving till 1855.

‡Lemuel Noyes Pattee was a native of Massachusetts, born February 5, 1804, but removed with his parents to Goffstown in this state in early childhood. He was register of probate for Hillsborough County from 1842 till 1852, residing in Amherst, which town he represented one year in the Legislature. In 1852 he removed to Antrim, and was also a representative from that town. He was secretary of state from 1855 to 1858, returning then to Goffstown, where he died April 1, 1870.

§Walter Harriman, born in Warner, April 8, 1817, died in Concord, July 25, 1884. He received an academical education, taught school, and entered the Universalist ministry, preaching from 1841 to 1851, at Harvard, Mass., and Warner. He represented Warner in the Legislature, as a Democrat, from 1849 to 1851. In the latter year he engaged in mercantile business at Sutton with John S. Pillsbury, subsequently governor of Minnesota. From 1853 to 1855 he was state treasurer, being removed in the latter year by the Know-Nothings of which organization he had been one of the most determined opponents. He subsequently served for a time as examiner of claims in the pension office at Washington, and as a commissioner to appraise Indian lands. He was a noted Democratic campaign speaker and stumped Michigan for Buchanan in 1856, with Gen. Lewis Cass. He served in the State Legislature in 1858, and in the State Senate in 1859-'60. In 1861 he became editor of the *Manchester Union* in which he sustained the war policy of President Lincoln. He commanded the Eleventh New Hampshire Regiment in the Civil War, and led a brigade in the assault on Petersburg, April 21, 1865. He was discharged as brevet brigadier-general June 10, 1865. He was voted for as their candidate for Governor, by

as treasurer, by William Berry.* Nearly every man in the state, holding office by executive appointment, was removed upon legislative address, and the places thus left vacant were filled by adherents of the new party. Even the chief justice of the Supreme Court of the state, Hon. Andrew S. Woods† of Bath, was gotten rid of by the ingenious process of "reorganizing the judiciary" or the abolition of the court and the creation of a new one with the same powers and duties but a somewhat different name — the "Supreme Court of Judicature" making way for the "Supreme Judicial Court," and Ira Perley‡ of Concord being installed in the office of chief justice, while Judge Woods was relegated to the seclusion of private life.

Judge Woods was a man of great ability, a sound lawyer, whose decisions ranked high in this and other states. For him Mr. Bingham entertained the highest regard and in the *White Mountain Banner* of July 28 (which paper, published by Van Ness Bass,§ succeeded the *Ammonoosuc Reporter*) appears an

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the "War Democrats" in 1863. Having become a Republican he was chosen secretary of state in 1865, serving till 1867, when he became Governor. From 1869 to 1877 he was naval officer at Boston. Establishing his residence in Concord he served in the Legislature again in 1881. He was the author of a history of Warner, and received the honorary degree of Master of Arts from Dartmouth College in 1868.

*William Berry, a son of John and Hannah (Garland) Berry, was a native and resident of Barnstead, born November 18, 1799. He was a merchant and farmer, held various town offices, and was deputy warden of the New Hampshire state prison, under Hon. Samuel Berry, from 1843 to 1848. He was elected state treasurer in June, 1855, and held the office until his death from a fall, upon the steps of the state house, January 23, 1857.

†Andrew Salter Woods, born in Bath, June 2, 1803, died there June 20, 1863. He was graduated from Dartmouth College in 1826, studied law with Ira Goodall of Bath, and was his partner in practice for twelve years. In 1840 he was appointed associate justice of the Supreme Court, serving till 1855, when he was made chief justice, but soon removed through the reorganization of the court by the Legislature for partisan reasons. He was given the degree of LL. D. by Dartmouth in 1852.

‡Ira Perley was born in Boxford, Mass., November 9, 1799. He was graduated at Dartmouth in 1822; was admitted to the bar in 1827 and located in practice at Hanover where he was also treasurer of the college. He was twice elected to the Legislature from Hanover and gained high rank at the bar. He removed to Concord in 1836. He was an associate justice of the Superior Court from 1850 till 1852, and chief justice of the Supreme Judicial Court from 1855 till 1859, when he resigned. In 1864 he was again appointed to the same position, serving till seventy years of age, in 1869. He died February 26, 1874. He was honored with the degree of LL. D. by Dartmouth in 1852.

§Van Ness Bass, born in Lyman, July 14, 1830, died at Plymouth, April 29, 1907. He attended the academies at Bath and at Newbury,

article which he wrote, severely arraigning the Legislature for its action in thus prostituting the judiciary of the state, with a view to making the court or judges subservient to partisan ends, and speaking in the highest terms of the deposed chief justice, whose eminent ability, fairness and independence had never been successfully questioned.

During the presidential campaign of 1856 and the months preceding Mr. Bingham was a frequent contributor to the editorial columns of the *Banner*. In the issue of March 22 of that year one of his articles reviewed the outlook and expressed confidence that conditions would be so shaped as to insure Democratic success. The situation in New York was pronounced hopeful, and the opinion expressed that the Know Nothing delusion had about run its race, and that "the days of this unrighteous combination against civil and religious liberty are already numbered"; while the Republican party, which was being evolved to take its place, was "a conglomeration of odds and ends,— the refuse of all parties — bound together by no ties but common love of spoils and plunder."

In the issue of April 5, following, Mr. Bingham pays a graceful tribute to Hon. James M. Rix,* editor of the *Coös Democrat,* who had died in Boston on the 25th ult., on his way to the South.

In the number for May 17 is an article under the caption "Program of the Opposition," in which the purpose of the anti-Democratic forces in the states, as diagnosed by Mr. Bing-

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Vt., and learned the printer's trade in the office of *The Spirit of the Age* at Woodstock, Vt. He published the *Observer* for a time at St. Clair, Mich., before coming to Littleton where he continued business as a job printer several years after the discontinuance of the *Banner* in 1859, later removing to Plymouth, where he was in the printing business many years, and published the *Grafton County Democrat* from 1878 to 1883.

*James M. Rix, born in Landaff, N. H., December, 23, 1811, died in Boston, Mass., March 25, 1856. He was a printer by occupation, having learned the trade in the office of the *Democratic Republican* at Haverhill, and the *New Hampshire Patriot* at Concord, and went to Lancaster to conduct the *Coös County Democrat*, then about being started, in July, 1838. He made a spicy and vigorous paper, and soon became prominent in political life. He was clerk of the court for Coös County from 1839 till the time of his death, and also served as bank commissioner from 1843 to 1846 and from 1848 to 1855. In 1847 and again in 1848 he represented Lancaster in the State Legislature; in 1852 and 1853 he was state senator, being president of the Senate in the latter year, and had been elected a member of the New Hampshire delegation in the Democratic National Convention at Cincinnati in 1856.

ham, is succinctly set forth, the inference being drawn from the action of a council of the leaders, which had been held at Plymouth shortly before, at which Millard Fillmore, who had already been nominated for president by the national American party, was repudiated as a candidate. The reason which Mr. Bingham adduced for this action was that Mr. Fillmore's endorsement of the compromise measures of 1850 had offended the abolition or anti-slavery element of the state, upon which the opposition to the Democracy proposed to rely for success, having "sacrificed everything else, even their animosity to the Pope and the Irish to give greater unity and distinctness to their crusade against the South." He welcomed the issue and asserted that it would be found that the advantage was not altogether one-sided, as it had been before, since "it will now be seen that those who whine most piteously over the repeal of the Missouri Compromise are those who never acknowledged its binding force." "It will be seen also," he said, "that all the practical difficulties attending the operation of the Kansas bill are plainly to be attributed to the cowardly yet factious and treasonable conduct of Reeder and his compeers; and more than this, many of our New England men are contesting the palm with the Missourians for the eminent glory of being the greatest 'ruffians'."

In the *Banner* issued under date of June 14 appeared a strong editorial endorsement by Mr. Bingham of the Democratic nominee for president, James Buchanan of Pennsylvania, who had been named by the National Convention at Cincinnati shortly before. He was characterized as "a strong, conservative, practical statesman," whose "long services in the United States Senate, and in responsible positions abroad, have given him an invaluable experience, while his consistent and statesmanlike course upon the great questions which have agitated the country since the time of Jefferson, has secured him the respect, confidence and esteem of the nation."

In a subsequent issue, just before the November election, Mr. Bingham discussed the comparative claims and qualifications of all the candidates, including Fremont and Fillmore, and called upon voting readers to consider well their relative merits, then reflect, candidly and honestly, and say, by their votes, who is the man to guide our destinies for the next four years. "If

you do this," he wrote, "we have no hesitancy in saying you will pronounce that man to be James Buchanan." He concluded: "We believe the people have already come to this conclusion, and we are happy in a belief that in such an event the principles of the government are not to be changed from those under which we have so long lived and prospered as a people. The Constitution will be protected and the union of these states preserved, and our government handed down to posterity as the richest legacy that can fall to the lot of man."

Mr. Bingham was right in his prediction as to the immediate outcome, but as to the actual effect which that outcome had regarding the protection of the Constitution and the preservation of the Union, it is a question upon which patriotic citizens have honestly and widely differed and will doubtless continue to so differ for years to come.

Naturally enough, in an issue of the *Banner*, after the result of the election was known, under date of November 22, Mr. Bingham gave expression to sentiments of rejoicing, pronouncing it "the greatest triumph that has been gained by the Democracy since the election of Thomas Jefferson." "It was a struggle," said he, "between a sectional party, thrown together from all the isms and factions that disappointment could conceive or hatred could engender, and the old national Democracy which, under Providence, has coexisted with and *is* the Union, with all its pride and glory, and which has again proved itself equal to any emergency that may threaten or endanger the nation. . . Nobly have the Democracy and their glorious allies fought; nobly has an unparallelled victory been won. James Buchanan will continue to keep the good old Ship of State upon the right course. He, like his predecessor in the presidential chair, will know no north, no south, no east, no west, but our country 'one and indivisible.' The Constitution is safe; the Union is preserved."

In another issue, a few weeks later, he made reference to the outcome of the election in the State of Illinois, the home of Senator Stephen A. Douglas, which gave its vote for Buchanan, and which result he characterized as "the crowning triumph of the great and glorious victory." The "little giant of the West" was lauded as having come out of the contest unscathed, though he had been shamelessly vilified and his motives impugned by

men who never knew there was such a thing as political honesty; while "the three thousand clergymen who supposed they possessed the power to crush him out have learned by a demonstration how feeble they are when they step aside from their legitimate calling."

While Mr. Bingham's contributions to the press were mainly of a political nature, and these indulged in largely as a diversion from legal work and study, though at the same time dictated by a sense of duty, it by no means follows that his mind never turned in other directions. His mental versatility and many-sided nature, were fully recognized by those who knew him best. A suggestion thereof, at least, is furnished in an editorial contribution to the *Banner* of April 18, 1857, in which he welcomed the spring, giving utterance to thought and sentiments presenting the author in a different light from that in which he was ordinarily seen. In this article he said:

We cordially welcome the spring. Her very name awakens the glow of pleasurable emotions in the heart, and we believe, with Tennyson, that her reign is the happiest time of all the glad new year. Genial sunlight and bland breezes heralded her advent, and, though her smile is sometimes lost in gathering clouds, we know that she will bring beauty and freshness to the earth. Once more the silvery gleam of lake and river will meet the eye, and the noisy mountain brook will go singing on its way like a happy child. The sleeping germs, folded in myriads of buds, will awaken into life; grass will spring up where all is now dark and dreary; trees and shrubs clothe themselves in the delicate garniture of their young leaves, and the violet and snowdrop open their starry eyes. The passage birds will wing their flight back to their forest homes, and their songs will mingle with the murmur of the stream and the drowsy hum of the bee.

But spring not only brings loveliness to nature, she is richly freighted with human hopes. How many invalids have been absolutely yearning for this season! How the pallid cheek glows; how the languid eye brightens; how the pulse bounds at the thought of gentle winds and the breath of early flowers!

How many wanderers on the distant seas or in foreign lands are looking forward to spring at this time, when they shall come back to their home and the hearts so anxiously awaiting their return! How many fondly believe that this season will be a sunny spot in their existence, a joyful crisis in their destiny!

Aye, spring has a priceless wealth of hope, but she has her memories, too — some that it will be sweet to recall and others of

which we cannot think without deep regret or profound sorrow. There are those who will find delight in reverting to some springtime in the past when they first chose the path which led them to their present wealth, distinction or peaceful happiness, and to such no season will be so pleasant as this. But there are many of whom every soft gale and every blossoming flower will bring a reminiscence of the dead.

Let us glance around us among the circle of our acquaintances. Where are those who, a twelve-month ago, rejoiced at the approach of this season? Some, it is true, are with us still; others are far away, and others sleep that dreamless slumber from which there is no awakening till the resurrection morn. Alas, the cypress is enwoven with the unfolding flowers; in the glad *pæan* which ascends to heaven there are dirge-like tones.

Who may tell how heavily the gloom of affliction has settled on the broken household band? Who may tell how deep and poignant is their grief? Still they have consolation in their bereavement. They mourn not as those who have no hope. The departed sleep in the cold embrace of death; but we believe that, like the flowers that now awaken into new bloom, their spirits will arise in everlasting love, on the morn of a brighter day, at the dawning of a more glorious spring.

A striking illustration of the bitterness of the partisan spirit then prevailing in the state, and the disposition in the Democratic party to regard the prohibitory liquor law, then generally known as "the Maine law," which had been enacted by the previous legislature, as having been advocated and passed with a view to partisan advantage merely and without any sincere regard for the public welfare, is afforded in an editorial from Mr. Bingham's pen in the *Banner* of June 27, 1857, in which he first pays his respects to the legislative supporters of Hon. Daniel Clark,* who had just been chosen to the United States

*Daniel Clark, born in Stratham, October 24, 1809, died in Manchester, January 2, 1891. He graduated at Dartmouth in 1834, was admitted to the bar in 1837, when he commenced practice in Epping, removing to Manchester two years later, where he continued and attained distinction. It was in a warmly contested case, in which he had Mr. Clark as his antagonist, in the Hillsborough County Court, that Mr. Bingham's abilities first came into notice in southern New Hampshire. Mr. Clark served in the Legislature in 1842, 1843, 1846, 1854 and 1855. He was a delegate to the Republican National Convention in 1856, and was also a Republican presidential elector that year. He was chosen to the United States Senate in 1857, to fill the vacancy occasioned by the death of James Bell, and reëlected in 1860 for six years from March 4, following. He resigned in July, 1866, to accept the office of United States District Judge for New Hampshire, which he held till his death. He was president of the Constitutional Convention of 1876.

Senate, and whose nomination in the legislative caucus was alleged to have been followed by a drunken carousal on the part of his supporters. Following his sharp comments on this affair, he went on to arraign the men who were active in the passage of the Maine law for their hypocrisy, alleging that after its enactment "many of them immediately repaired to a drinking saloon, where they drank 'a health to the Maine law' in good stout Cognac brandy." Pursuing the subject he went on to say: "We know and can prove that at the time Ralph Metcalf asserted in his message that he 'knew of no place in New Hampshire where spirituous liquors were illegally sold,' that in his own town there were three such places, and that in the city of Manchester they were counted by fifties, where it was as openly sold as were English or domestic goods; that the same was true of Dover, Nashua, Portsmouth, and, to a greater or less extent, it was thus sold in almost every town in the state."

In an article appearing in November following we find Mr. Bingham replying in kind to a bitter and violent attack upon the Democracy, appearing in the columns of the *New Hampshire Statesman;* while a month later he assailed the dominant party in the state for its reckless extravagance in piling up a state debt of $120,000 during the two years and a half of its control, the total indebtedness when it assumed power being but $38,000, the attention of the people being diverted from its recklessness in this regard by the sympathetic outcry in behalf of "Bleeding Kansas."

In the *Banner* of March 6, 1858, he presented a ringing appeal to the voters of Grafton County to rally to the Democratic standard, borne by the true and tried candidates of the party at whoe head was Col. Asa P. Cate,* the nominee for governor, "whose fidelity to the great principles of our fathers is as firm

*Asa P. Cate was born in Sanbornton, now Tilton, June 1, 1813. He was educated at the academies in Boscawen and Sanbornton Bridge (now Tilton), read law with Judge Nesmith at Franklin and located in practice at Northfield where he continued. He was moderator at every town election from 1838 till 1874 with two exceptions, represented the town in the Legislature in 1839 and 1840, and in 1864–'66. He was also a state senator in 1844 and 1845 and president of the Senate the latter year. He was solicitor for Merrimack County from 1845 to 1851, railroad commissioner from 1849 to 1852, judge of probate from 1871 to 1874. He was the Democratic candidate for Governor in 1859 and 1860. He died December 12, 1874.

and steadfast as our own granite hills; whose regard for the highest interests of the masses is beyond the questioning of any man, and whose liberal support of the institutions of learning is known to all." The unparalleled extravagance and unfulfilled promises of the Republican party were dwelt upon, as well as its disregard and absolute violation of the constitution, and Democrats urged to rally in their strength and drive it from power. Following the election in which the Republicans triumphed in the town of Littleton as well as the state, came another article in which he administered a stinging rebuke to traitors to the Democratic cause in the town who had sold their votes for money. "Have these poor deluded men," he asked, "taken a sober second thought on this subject? Do they consider that any man who will sell his vote would also barter the liberty of a son, or the virtue of his wife or daughter?" As for the Republican victory, he characterized it as having been "won by a course of fraud which in the annals of our town has no precedent."

Just preceding the election of 1859, in the issue of March 5, Mr. Bingham again appealed to the voters of Littleton, in behalf of the Democratic cause, calling attention to the corruption that had been practiced the year previous, and especially urging the poor and needy voters to resist the temptation which might be presented, and remain honest, straight-forward citizens conscious of their own rectitude and independence. The outcome of the election, this time, was a Democratic triumph in the town, and the next published article from his pen was one appearing in the *Banner,* a week later, congratulating the Democracy of the town upon the sweeping victory which had been won in securing a handsome majority for every man on the Democratic ticket, although the most desperate measures had been resorted to by their opponents. This was the last published newspaper article from Mr. Bingham's pen, appearing for many years, as the publication of the *Banner* was soon after suspended, and its subscription list transferred to the *New Hampshire Patriot* at Concord, and no Democratic paper was again published in town until the establishment of the *White Mountain Republic* by Chester E. Carey* and Henry H. Metcalf in October, 1867. Nor

*Chester E. Carey was a native of the town of Lempster, born March 11, 1840. He learned the printer's trade in the office of the *Vermont*

did he then return to his custom of frequent contribution, the demands of his profession having become more pressing than formerly, or the exigencies of the political situation less so. He made one contribution to the *Republic*, however, which was specially notable, the same occupying about two full pages of space in the paper. It appeared in the issue of December 3, 1869, and was subsequently published in pamphlet form, being entitled "The Great Black Republican Bear Fight in New Hampshire." It was a caustic review of the sharp and bitter controversy between William E. Chandler and the late Hon. George G. Fogg,* growing out of personal differences between these men and specially characterized by an attempt on the part of Mr. Chandler to involve the late Hon. John G. Sinclair in an alleged conspiracy with Mr. Fogg to bring about the nomination of Chief Justice Salmon P. Chase for the presidency by the Democratic National Convention in 1868, and demonstrated the injustice of the charge. It was widely circulated and read with much interest in all parts of the state.

Two other articles from Mr. Bingham's pen, published in later years, commanded no little attention in political circles. These were one appearing in the *Manchester Union* of February 14, 1883, entitled, "The Present State of Public Sentiment Towards the Relations of the States and the Federal Government," and dealing with the growing tendency toward the centralization of government; and one on "The Issues at Stake

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Union, at Lyndon, and engaged in business in Littleton, as publisher of the *White Mountain Republic* in 1867, selling the paper to H. H. Metcalf in the fall of 1871. He was subsequently employed in various printing establishments, and finally located in Hanover, where he was engaged as a printer for several years previous to his death, September 25, 1896.

*George Gilman Fogg, born in Meredith, May 26, 1813, died in Concord, October 5, 1881. He was graduated at Dartmouth in 1839, read law and located in practice at Gilmanton. He was a representative in the Legislature in 1846, and was chosen secretary of state, serving two years. He was a delegate in the National Free Soil Convention in 1848, and in the Republican Convention of 1856 and 1860. He edited the *Independent Democrat* at Concord from 1854 to 1861 and from 1865 to 1871. He was secretary of the Republican National Committee from 1856 to 1864. He served as United States minister to Switzerland from 1861 to 1865, and as a senator from New Hampshire by appointment, succeeding Daniel Clark, in 1866–'67. In 1874 he received the honorary degree of LL. D. from Bates College, to which institution he gave $15,000 by his will.

in the Present Campaign'' appearing in the *Riverside Magazine* for October, 1890, presenting the subject from a Democratic standpoint and appearing contemporaneously with one by Hon. William E. Chandler from a Republican point of view. The two articles in question are presented in full in the following pages:

THE PRESENT STATE OF PUBLIC SENTIMENT TOWARDS THE RELATIONS OF THE STATES AND THE FEDERAL GOVERNMENT.

(From the Manchester Daily Union, February 14, 1883.)

The party prejudice is not particularly rampant at the present time, and the opportunity is not unfavorable for an impartial consideration of the situation as it really is. Our country can justly boast of advantages and prospects of which no other country on the earth can boast. Wealth and population are rapidly increasing, and liberty protected by law is secure. Untiring industry and indomitable enterprise are making apparent the inexhaustible resources of our almost boundless territory. It is plain that, with its present development continued, the time is not far distant when our country will outstrip all the nations of the world that are or have been, not only in wealth and population, but in all the great achievements of civilization. This present development is the product of our free institutions, and will continue while those free institutions last. Every intelligent American citizen will admit that all his hopes of a glorious future for his country are inseparably linked with the idea that our existing free institutions are to be preserved and perpetuated. Everybody who speculates in regard to the prospective greatness of our people assumes that civil liberty is to be enjoyed in the future as it has been in the past—that all the inhabitants of the land are to be free to engage in the pursuit of happiness, unrestrained save only by the law that they must not trespass on their neighbor. Nobody can see a future for America, if civil liberty be lost, other than a black and hopeless one. Citizens of all parties, of every station in life, and of every grade of intelligence, would undoubtedly agree to the sentiment that ''our institutions must be preserved.''

It is worth while, therefore, to inquire, to study and to know

how civil liberty was acquired, how, hitherto, it has been maintained, and what security there is for its future enjoyment. Our colonial ancestors had the idea of self-government, and they planted colonies, and organized governments for those colonies based upon that idea. Each colony governed itself and maintained substantial freedom within its limits until the revolt from Great Britain, and then each colony became an independent state, with all its own peculiar institutions. Each state was born an independent republic, with free institutions firmly established, and with a people habituated to self-government. All the different states were alike determined upon the maintenance of their separate independent governments, each for itself, and they did not consent to the adoption of the Federal Constitution until experience had demonstrated that there were certain matters which the states, acting in their individual capacity, could not properly manage. By the adoption of the Federal Constitution a government was created, to which was delegated certain powers, few in number, and particularly specified, while all other powers were reserved to the states or the people. The condition of the states was unchanged by the adoption of the Federal Constitution, except so far as it was effected by the loss of the powers delegated to the general government. In all other respects the states remained as they were left by the Declaration of Independence, free and independent states.

The coördinate operation of the state and federal governments has now carried us through the wear and tear of almost a century of time, and through the terrible strain of a tremendous Civil War, and we are still left in possession of civil liberty. The states are still left in possession of sovereignty as it respects local and domestic matters, while the supremacy of the federal government is still limited to matters pertaining to the general welfare of all the states. The division of the powers of sovereignty between the federal and state governments at the termination of the colonial period was a necessity. To provide for all the common defense, and for certain other matters pertaining to the general welfare of all the states necessitated the Union and the creation of the federal government, with powers supreme within the prescribed boundaries of its jurisdiction; while the existence of the states with diverse institutions and interests, and with pop-

ulations diverse in origin and manners, but well trained in local self-government, and thoroughly resolved upon its maintenance, made it necessary to leave the state organizations untouched, and with full control over all local and domestic matters. Thus the union of sovereign states under the Federal Constitution was the necessary outcome of the situation. The expansion of the colonies, when separated from the mother country, into independent states and a federal Union was a natural and inevitable expansion; and the divided sovereignty, thereby created, is, and has been, the palladium of our civil liberties and the assurance of the brilliant future which we anticipate.

The states and federal government are mutual checks upon each other and mutual guarantors for each other. So long as either discharges its appropriate duties within its legitimate sphere, just so long will the other be sure to perform its peculiar duties, and to limit its action to such performance. The destruction of either would be the annihilation of our governmental fabric, just as completely as the destruction of either the planets or the sun would be the annihilation of the solar system. Experience has shown that the federal government is strong enough to enforce its legitimate authority, and that the attachment of the people to local self-government is strong enough to maintain the states respectively in the control of local and domestic matters. The average citizen always has a realizing sense that state authority is present to protect and to restrain him. The presence of federal authority is not so obvious to him. He ordinarily sees rights established, wrongs redressed and crimes punished in the name of and by the sovereign power of the state. Except in times of war, or some other public exigency affecting the general welfare, he rarely sees in his immediate presence an exercise of federal power. It is reasonable, therefore, to expect that the state would have a stronger hold on the people than the federal government, and therein lies the safety of the states.

When the great southern rebellion collapsed, and the hand of the conqueror had blotted out not only the confederacy but the rebellious states themselves, order was restored to the political chaos thus created through the subjugated people themselves. Their habits of local self-government, and their traditions instinctively impelled them to seek protection from anarchy and

misrule by restoring their old state organizations. And this they did, meeting and overcoming congressional legislation and federal bayonets with passive endurance. They reorganized their states under such regulations as their conquerors would permit, and were then ready to resume their places in the Union.

The exhortation of patriots and the teachings of political philosophers as to the importance of preserving the reserved rights of the local organizations will not materially lengthen their existence. States must depend for their perpetuity on the devotion to their maintenance which habit, discipline, tradition and education have planted in the hearts of the people. It is the province of statesmanship to study and to know what it is that assures perpetuity to our existing institutions; to do everything to strengthen and nothing to weaken the power that gives such assurance. The ruler in this country who would weaken the hold which the home governments have upon the people is no statesman.

However specious the pretence under which the federal government may interfere with the local affairs of the state, it is a step in the wrong direction. It is a step towards the abolition of home government and the establishment of a consolidated empire. When once these United States are transformed into a consolidated empire, the strong arm of a despot will be the only power that can maintain territorial unity. Superficial reformers, one-idea philanthropists, are apt to be constantly seeking to carry out some specious reform in a sweeping manner by forcing the federal government to encroach on the reserved powers of the states, and to exercise authority outside of its appropriate jurisdiction. The spirit as well as the letter of the Constitution ought always to be observed. The people ought always to see matters pertaining to the general welfare of all the states regulated by the federal government, and matters of a local and domestic character regulated by the states.

At the present time there are reformers who propose to wipe out ignorance from among the masses of people throughout the whole country by donations to be made by the federal government to the different states, according to the degree of illiteracy in each. This proposition is a proposition pernicious in principle, inasmuch as by its terms it offers the largest reward to the great-

est ignorance. It is a proposition in violation of the spirit if not the letter of the constitution, inasmuch as it proposes to have the federal government interfere with the masses in the different states. There can be no good objection to the establishment of a grand university by federal authority, upon federal territory, where all learning and science may be taught to the ingenuous youth of all the states, as was contemplated by the fathers of the republic. The creation of such an institution might well be regarded as within the scope of the powers granted to the federal government and as a judicious exercise thereof. But for the federal government to interfere with the education of the masses of the people in the different states by irregular and unequal donations cannot be otherwise than mischievous in every aspect of the matter. Better, far better, it must be to leave each state to do its own work of education, stimulated by that spirit of emulation which it is reasonable to suppose will always animate coequal states. It is certainly to be hoped that the peculiar structure of our government will be remembered whenever this measure and kindred measures are considered.

No good can come from a violation of the Constitution in any particular. Any apparent advantage thereby gained is much more than counterbalanced by the bad precedent established and the consequent relaxation of the restraint imposed by all constitutional limitations. Civil liberty will remain with us while the Constitution is obeyed, while the federal government is restrained to the use of its delegated powers and the states are maintained in the independent exercise of their reserved powers.

At the present time the tendency is to an undue expansion of the power delegated to the federal government, and an undue contraction of the reserved powers of the states. The thoughtful patriot will anxiously seek to check this tendency, and to hold the federal government and the states in their respective positions as fixed by the constitution. He will remember that the United States are what their motto, *E Pluribus Unum,* implies—one, so far as the federal government can act, but many and independent of each other so far as the individual states can act.

The Issues at Stake in the State Campaign.

(*From the Riverside Monthly, October, 1890.**)

I have been invited to make a statement of the ground on which the Democratic party will act in the coming election, and was informed that Mr. Chandler would make a similar statement for the Republican party. In responding to this invitation I can only give the political theories and principles of the Democracy as expounded by the early leaders, Jefferson, Madison and Jackson, and ever since acted upon by the party, and discuss their application to the measures now before the people for consideration.

The Democracy believe, first, that all governmental power ought to be limited by the most narrow bounds consistent with the safety of the public; that the individual ought to be free to be a law unto himself, and that the scope of his action and judgment ought always everywhere to be enlarged, saving and excepting that he must not trespass on his neighbor; that the people are sovereign; that they retain in their own hands all the power that they have not delegated either to the state or federal governments; and that those governments were ordained by the people for the people, and may be altered or abolished by the people in their own good pleasure.

The Democracy believe, secondly, that the fundamental laws by which the people have delegated certain power to the federal government, and certain other powers to the state governments, while retaining all powers not so delegated, must be scrupulously observed; that in administering both the state and federal governments the original plan by which those governments were framed should be remembered.

These ideas have guided the Democracy in their action upon public measures. The party opposed to the Democracy since the foundation of the government, under all the different names

*The publication of the *Riverside Monthly* was commenced in October, 1890, by Alpheus Sherwin Cody, a native of Michigan, then proof-reader for the Republican Press Association, the first issue containing, aside from other matter, this article by Mr. Bingham, and the one by Mr. Chandler to which Mr. Bingham alludes in the opening. Only three numbers appeared, publication being suspended after the December issue. Mr. Cody is now a Chicago author and publisher.

it has borne, has been prone to seek the augmentation of federal power and to use it for partisan ends.

This party, known today by the name Republican, is giving us many illustrations of its centralizing tendencies. It is now about to enact into law the McKinley bill so called. This bill is not claimed to be a bill for revenue, but for protection—for the prohibition of trade.

The Democracy denounce a tariff simply prohibitory in its nature, and for protection merely, as unconstitutional. The only protection which the Constitution permits is the incidental protection afforded by a tariff for revenue. The McKinley bill is one illustration of the disregard of the Constitution by the Republican party when it stands in their way.

The position of the Democratic party is that the Constitution limits the power of Congress to a tariff for revenue, with the incidental protection that can thereby be given. They have always contended that trade is one of the great sources of national wealth and power, and that, whether foreign or domestic, it ought not to be unnecessarily crippled. The trade of New England with the rest of the Union is of vast importance to her. So, too, in the same manner, if not to the same extent, her trade with Canada and the outside world is generally beneficial to her.

The Democracy denounce the McKinley bill as unconstitutional, and charge that, in utter contempt of the best interests of the country, it is designed to cripple trade and destroy our foreign markets; to add to the already overgrown fortune of monopolists, and to impoverish still further the masses; and that it is supported and about to be enacted into a law by a corrupt alliance between monopolists and Republican partisans, whereby money is to be raised and corruptly used to carry elections for the Republican party.

The Democracy will always resist the McKinley bill until repealed, and demand a general reform of the tariff. They believe that our infant industries have grown to be strong, and that the products of our manufacturing establishments and our agriculture have increased so much beyond home consumption that in order to have competent and remunerative employment for our labor we must have foreign markets; that a prohibitory tariff enables the few to form trusts and monopolies, and enrich them-

selves at the expense of the many; that it enables the manufacturer to limit the demand for labor by limiting production to the home markets, and to sell in that market at his own prices, and, also, arbitrarily to fix the wages of the laborer; that there never was a greater humbug than the claim that a prohibitory tariff is beneficial to the laborer; that, on the contrary, by limiting production, it limits the demand for his labor and makes him pay higher for what he buys, and get less for his labor; and that there is no class of people in this country at the present time so much interested in having tariff reform as the laboring class.

The Democracy look with loathing on, and strongly condemn, the extraordinary means that have been used and are being used by the corrupt alliance of monopolists and Republican partisans in pushing this McKinley bill to be enacted into law, and in securing it permanently on the statute-book. They condemn the arbitrary and defiant conduct of the speaker of the present congressional house of representatives, and his despotic overruling of the construction given the Constitution since the foundation of the government, contrary to his own often expressed convictions, avowedly for the purpose of securing the passage of the McKinley bill and other bills allied with it.

They condemn the Force bill, commonly so called, as dangerous, arbitrary, and, if enacted, sure to destroy American liberty. They condemn it as a measure introduced in aid of the McKinley bill, put up and put down, brought forward and postponed, according as the passage of the McKinley bill might be aided.

They charge that the purpose of the Republican partisans and their allies, the monopolists, is to enact the Force bill into law for the purpose of creating machinery that shall enable them to perpetuate the present Republican majority in future congresses, and thus maintain the McKinley bill permanently on the statute-book. They charge that for the same purposes it has been sought to make the senate permanently Republican by giving seats in that body as senators to persons from the state of Montana who were never elected, and by admitting territories to statehood which had not the requisite population.

The Democracy especially denounce the Force bill because, if it be enacted into a law and put into force, it will inevitably destroy the balance between state and federal power, and enable

irresponsible federal officers to do the registering (that is the selection of voters), the counting and the certifying of results, and thus to appoint the members of Congress for the several states, while the people of the states are absolutely defrauded.

They charge that this is centralization with a vengeance; that such a law will arm the party now in control of the federal government with the means of perpetuating their dominion forever, with no accountability to the people; that the federal registering, counting, and certifying will certainly be done; that there will be on the assembling of every Congress *prima facie* evidence sufficient to establish a reliable Republican majority; that nobody who has witnessed the security of Republican seats and the frail tenure of Democratic seats in the present Congress can have any doubt that a Republican majority once established at the organization will never be impaired; that then the people will be powerless, resistance useless; if attempted, the bayonet will do its work.

One reason assigned by the Republicans for the passage of the Force bill is that they want an honest count. The Democracy charge that it is not an honest count the opposition want, but a dishonest count of their own making. The originators of the Force bill design to do their own registering, certifying and counting,—such counting as was done in Florida, Louisiana and South Carolina in 1876.

The Democracy charge that there can be no reliance placed upon a count made by the federal officers under the Force bill; that those officers have no accountability to the people; that the officers under state governments do their work under the eye of the people, and are directly responsible to them; that, therefore, under the Force bill, the people have no assurance of an honest count, while under the state governments they have in their own hands the means of enforcing an honest count.

It is further contended that there is a conflict of races in the South, and for that reason the negro is intimidated, and does not vote, and thus it is necessary to take the elections out of the hands of the people in the North and in the South, and put them in the control of irresponsible persons by a general law.

Nothing can be plainer than that this is a mere pretense for

the usurpation of dominion over elections, and for taking them out of the hands of the people.

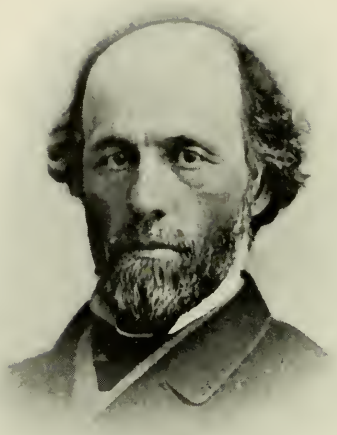
If there ever could be any reason for such a law on account of the negro, it was when he was first emancipated and endowed with all the rights and privileges of citizenship. The South was then in a chaotic condition. The negro was profoundly ignorant, with none of the habits qualifying one to discharge the duties of a freeman. He could easily be ensnared by absurd delusions and the arts of unprincipled demagogues.

At this time a bill like the Force bill was introduced into Congress, considered, and rejected as dangerous to the peace and liberty of the country.

At the present time the Southern people have themselves established good order, and both races are prospering in all respects. Great progress has been made by the blacks in education, in acquiring habits of industry and economy, and in their general well-being. It is the uniform testimony of every candid observer who has visited the South, that there is no occasion for interference from abroad with the affairs of the Southern states, and that such interference will create there mischief, and mischief only.

The Democracy further demand the enactment of the law commonly called the Australian Ballot Law, supported by the Democracy of the New Hampshire Legislature of 1889, and then and there defeated by the Republican party. This reform is in issue in the present canvass, and is imperatively necessitated in order to remedy the great and growing evils that the Republican methods have inaugurated. The wholesale bribery of voters in this state and all over the country in the interests of the Republican party, and particularly the purchase of the presidency in 1888, and also the gross intimidation of employes in our manufacturing and other establishments where laborers are employed, call loudly for this reform.

Such are some of the issues on which the New Hampshire Democracy will fight the fall campaign.



Hon. Harry Bingham

At 45 years.

LEGISLATIVE SERVICE.

While Harry Bingham was preëminently a lawyer — so regarded by men of his own time and, undoubtedly, so to be regarded by the historical student in the years to come — he was nevertheless conspicuous as a legislator. A careful and extended examination of the record reveals the name of no man in the state whose service in the Legislature covered so long a period of time as that of Mr. Bingham, and if there has been any such, he must have served in the early days. Certainly, no man serving cotemparaneously with him at any time had so long an experience in legislative work, or gained so wide distinction for efficient service. Between the years 1861 and 1893, Mr. Bingham was twenty times elected to the New Hampshire Legislature, either as a representative or senator, all but two of these elections being for service in the former capacity, which record, it may safely be asserted, can be matched by that of no other man of his time. The nearest approach to it is to be found in the cases of the late Hon. George W. M. Pitman* of Bartlett, who was twelve times elected to the House and twice to the Senate, his first election being as a representative in the Legislature of 1853, and his last, also to the House, for the Legislature of 1893–'94, and of Gen. Gilman Marston of Exeter who was fourteen times elected to the House. Daniel M. Christie of Dover was elected to the House twelve times, but never served in the Senate.

The late Hon. John G. Sinclair† of Bethlehem probably

*George W. M. Pitman, born in Bartlett May 8, 1819, died in that town December 3, 1898. He was a surveyor, lawyer and merchant, and long prominent in town, county and state affairs, being a leader of the Democratic party, in his section of the state. He served in the House of Representatives in 1853–4–5–6–7–9 and in 1863–4–5–8–9; in the Senate in 1870 and 1871, being president the latter year, and in the House again in 1893–'94. He was judge of probate for Carroll County from 1874 to 1876, and served in the Constitutional Conventions of 1850, 1876 and 1889, a distinction which, it is said, no other citizen of the state enjoyed.

†John G. Sinclair was born in Barnstead March 25, 1826, and died in Bethlehem June 27, 1899. He was educated in the common schools and at Newbury (Vt.) Seminary. He located in Bethlehem in early manhood, where he engaged in trade, and in hotel keeping, establishing the

ranked next, having served as a representative in the Legislature nine times from that town and once from Littleton, and twice in the state Senate from the old Twelfth District. Hon James W. Emery was ten times elected to the House from Portsmouth, and Samuel B. Page* of Haverhill, recently deceased, was also ten times elected to that body — six times successively from the town of Warren, once from Ward Six, Concord, and three times from Haverhill. The late William M. Weed of Sandwich and Joseph Q. Rolles of Ossipee, each served in the House in nine different Legislatures; while of present day legislators, James E. French of Moultonborough takes the lead in length of service, having been a member of the House during the last seven consecutive biennial sessions, also in 1878, and a member of the Senate in 1887. William J. Ahern of Concord, Ward Nine, is a close second to Mr. French, however, having been chosen a representative in 1895, and at every successive biennial election since, with the exception of 1899, when he was his party's candidate for sheriff of Merrimack County.

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well known "Sinclair House." He also subsequently engaged extensively in lumbering and starch manufacture. He took a lively interest in politics from youth, as a Democrat, and was first elected to the Legislature from Bethlehem in 1853, being reëlected the three following years in succession and again in 1863 and 1864 from Bethlehem; from Littleton, where he resided for a short time, in 1874, and from Bethlehem again in 1876-7-8. He was also a member of the State Senate from the old twelfth district in 1859 and 1860. He was one of the ablest political debaters that the state ever produced, and his joint debate with Walter Harriman, when the latter was the Republican candidate for governor and he the Democratic, in 1867, was the most exciting ever known in New Hampshire. He was also the Democratic candidate in 1868 and 1869.

*Samuel B. Page was a native of Littleton, where he was born June 23, 1838. He was educated in the common school and in the academies at Kingston, N. H., and Lyndon, Vt. He studied law with Harry Bingham and at the Albany (N. Y.) Law School, graduating from the latter, and finally locating in practice in the town of Warren, where he remained until 1870, representing the town in the Legislature for six successive terms, from 1864 to 1869 inclusive. In 1870 he removed to Concord, where he represented Ward Six in the Legislature of 1871. Subsequently he removed to Woodsville in the town of Haverhill, from which town he was sent to the Legislatures of 1881, 1889 and 1893. Mr. Page was noted both for his readiness as a speaker and his skill as a parliamentarian, in both of which respects he was without a peer in the state. As a political speaker he did more service for his party — the Democratic — than any other man of his time. He was chairman of the Democratic state committee in 1869 and 1870, and a delegate in the National Convention in 1900. He was also a delegate in the Constitutional Convention of 1876. He died at Woodsville, April 6, 1910.

Chosen to the House in 1861 and reëlected each succeeding year, to and including 1865, his first period of service covered the strenuous and exciting years of the Civil War, when party spirit ran high, passion sometimes overcame judgment and the conduct of men was commended or condemned according to the varying standards of duty or patriotism by which it was measured. So far as Mr. Bingham's action was concerned, however, in this, or any other period of his legislative service, no man of any party who knew him well ever alleged or believed that it was, in any instance, inspired by other than an honest purpose and sincere desire to promote the welfare of his constituents and of the public at large. A thorough-going party man, he was, nevertheless, no narrow partisan. He regarded his party merely as a means or agency for the promotion of the general good; and he adhered to the Democratic party, defended its principles and policies and supported its organization, solely with a view to that end.

The House of Representatives in the Legislature of 1861, in which body Mr. Bingham first took his seat as a representative from Littleton, his colleague from that town being Douglas Robins, a substantial farmer, father of Rev. J. E. Robins, D. D., who has twice served as chaplain of the House in recent years, was organized by the choice of Edward Ashton Rollins* of Somersworth as speaker; Edward Sawyer of Dover as clerk and Samuel D. Lord of Manchester, assistant clerk. Mr. Rollins received 191 votes against 114 for Aaron P. Hughes† of

*Edward Ashton Rollins, born in Wakefield, N. H., December 8, 1828, died at Hanover, September 7, 1885. He was a son of Hon. Daniel G. Rollins, and removed with his father to Great Falls, in Somersworth, in childhood, where he attended school. He fitted for college at the academies in Gilmanton and Rochester, and graduated from Dartmouth in the class of 1851. He studied law in Baltimore and Great Falls, and at the Harvard Law School, and commenced practice at Great Falls. He served in the Legislature from Somersworth in 1860, 1861 and 1862, being speaker the last two years. Subsequently he was appointed cashier of the internal revenue bureau at Washington, and in 1865 was made commissioner, serving till 1869. He removed to Philadelphia, where he was for a time president of the National Life Insurance Company. In 1876 he established the Centennial National Bank, of which he was president till his death. He was a warm friend and liberal benefactor of Dartmouth College, and Rollins' chapel at that institution is the principal monument to his memory.

†Aaron P. Hughes, born in Windham, N. H., May 7, 1815, died at Worcester, Mass., February 23, 1864. Mr. Hughes studied law with

Nashua, the Democratic candidate. Although a new member, Mr. Bingham's standing as a lawyer and acknowledged ability, were such as to command prompt recognition at the hands of the speaker who assigned him to a prominent position upon the judiciary committee, then as always, embracing the ablest lawyers of the House. This committee included: James W. Emery* of Portsmouth, chairman; Charles W. Woodman of Dover, Aaron P. Hughes of Nashua, Harry Bingham of Littleton, George W. Murray of Canaan, Elijah M. Topliff of Manchester, Cornelius V. Dearborn of Peterborough, Josiah H. Hobbs of Madison, Moses Eaton, Jr., of South Hampton and Stephen Kenrick of Franklin.

Among the more prominent members of the House at this session in addition to those named, were: Moses N. Collins of Exeter, David H. Buffum of Somersworth, Charles S. George of Barnstead, Joseph Q. Rolles of Ossipee, John W. Sanborn of Wakefield, Lyman D. Stevens of Concord, Natt Head of Hooksett, Martin H. Cochran of Pembroke, Francis N. Blood of Hillsborough, Ezekiel A. Straw of Manchester, Charles J. Smith of Mount Vernon, Moses A. Cartland of Weare, Daniel W. Bill of Gilsum, Charles J. Amidon of Hinsdale, Levi Chamberlain of Keene, James Burnap of Marlow, Paul J. Wheeler of Newport, Eleazer B. Parker of Franconia, Nathaniel W. Westgate of Haverhill, David Culver of Lyme, and Thomas J. Smith of Wentworth. Among all these the only present survivor is Elijah M. Topliff of Manchester, one of Mr. Bingham's associates of the

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A. F. Sawyer of Nashua, and was admitted to the bar in 1843. He located in practice in Nashua and soon acquired distinction as an advocate. He was originally a Whig in politics, and was a delegate to the National Convention that nominated General Taylor for president in 1848. He served as postmaster of Nashua from 1849 to 1853 and was a member of the Legislature in 1854. In 1856 he joined the Democratic party and was prominent in its councils till the time of his death. He served in the Legislature in 1861 and 1862. He was also conspicuous in Free Masonry and was at one time master of the Grand Lodge of New Hampshire.

*James Woodward Emery was a native of Haverhill, Mass., born November 30, 1808. He graduated from Dartmouth College in 1830 and read law with Ichabod Bartlett at Portsmouth, whose partner he became, continuing till the death of the latter in 1853. He served in the House of Representatives in ten different Legislatures — in 1843, 1844, 1846, 1853, 1854, 1855, 1861, 1872, 1873 and 1874, being speaker in 1873. He died at Portsmouth, November 16, 1891.

judiciary committee; and of the entire membership of the House that year very few survive, the names of William Nourse of Newport and Warren F. Daniell of Franklin, who also served his first term that year, being the only ones, aside from that of Mr. Topliff, recalled with certainty.

It may be noted that Mr. Bingham's first assignment to duty was made before the announcement of the standing committees, on the first day of the session, when he was named by the speaker as the minority member of a committee of three, to take into consideration the messages of Governors Ichabod Goodwin and Nathaniel S. Berry, the outgoing and incoming chief magistrates, both of whom addressed the Legislature in joint convention — the former upon retiring and the later upon taking the oath of office — and report what disposition should be made of the several subjects therein. Mr. Collins* of Exeter, upon whose motion the committee was appointed, and Mr. Cartland† of Weare were his associates upon this committee, which in due time performed its duty and reported accordingly.

Mr. Bingham naturally and by general consent, took rank

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*Moses N. Collins was born in Brentwood, April 15, 1820. He attended the academies at Gilmanton and Hampton Falls, and taught school for several years before entering upon the study of the law, which he pursued at Epping for a time, and concluded with Gen. Gilman Marston at Exeter, being admitted to the bar in 1857 and commencing practice in Exeter. He had represented Brentwood in the Legislature in 1855, and was elected from Exeter in 1861 and 1862, enlisting in the Eleventh New Hampshire Regiment the latter year, in which he was commissioned major. Subsequently he was promoted to lieutenant-colonel, being succeeded as major by Evarts W. Farr of Littleton. He was shot through the head and instantly killed in the Battle of the Wilderness, May 6, 1864.

†Moses A. Cartland was prominently known as a teacher and as a leader of the abolition movement. He was a native of the town of Lee, born November 17, 1805. He was a Quaker, educated in the noted Friends School at Providence, R. I. He established the famous Clinton Grove Academy in Weare in 1834, and was its principal for fourteen years, many able men there receiving instruction. Subsequently he was for a time principal of the Walnut Grove School in Lee. Later he returned to Weare and taught a year or two. He had a farm on Burnt Hill, near North Weare, where the last years of his life were passed. He was a cousin and close friend of the poet, Whittier, and was for a time his assistant in editing the *Pennsylvania Freeman*. He was also connected with other publications, including the *New Hampshire Journal of Agriculture* and *Journal of Education*. He was superintending school committee in Weare several years, but served in the Legislature only in 1861. He died in Providence, July 5, 1863.

with the leaders of the minority in the House, sharing with Francis N. Blood of Hillsborough, chairman of the Democratic legislative caucus and Aaron P. Hughes of Nashua, the party candidate for speaker, the honor and responsibility attaching to such position. As a member of the judiciary committee, he devoted himself earnestly to the important work in hand, and was immediately recognized by his fellow members as a man of great ability, resolute purpose, and sincere devotion to duty, giving every measure coming before the committee for consideration such attention as its merits demanded. He held position upon this committee during his entire legislative career, in both branches and it is safe to say that no man in the state, since the organization of the government, has exercised greater influence in shaping legislation. Many a wholesome measure has found its way upon the statute book through the support he gave it in the committee room, and many a vicious bill has been killed by his determined opposition in the same place. Indeed the judgment of no other man of any party, in any period of our history, has been more generally deferred to by his associates in the work of legislation, in all matters except those of a partisan nature, than was that of Mr. Bingham throughout his long period of service.

By far the most important measure that came before the Legislature of 1861, and the one whose presentation and consideration aroused the most earnest discussion, both in and out of that body, was what was generally known as the "Million Dollar Bill"— a measure entitled "An Act to Aid in the Defence of the Country," reported from the House Committee on Finance by Mr. Straw of Manchester on the 20th day of June and laid on the table to be printed and distributed on motion of Mr. Hughes of Nashua. By the terms of this measure the governor was authorized, with advice and consent of the council, "to take such measures as he deemed best for arming, equipping, disciplining, maintaining and transporting such military force of the state, as in his judgment may be needed for defending and maintaining in its full integrity the authority of the government of the United States, and the Constitution and laws thereof."

Expenses had already been incurred by the Governor on be-

half of the state, in raising, equipping and transporting troops, and by the terms of this act, it was provided that "for the purpose of meeting expenses already incurred, or any that may be incurred under this act, or any other act to provide for the defence of the country," etc., "the treasurer is authorized to issue bonds or certificates of debt in the name and on behalf of the state, to an amount not exceeding $1,000,000."

The position of the minority in the Legislature, in reference to this great war measure, which provided an appropriation so large as to render infinitesimal by comparison any former state appropriation for any purpose, and which clothed the Governor with power and discretion in the matter of expenditure and in the enlistment of men, such as no previous executive had ever exercised or held, was in accordance with the generally existing sentiment of the Democratic party of the state and country. The generally accepted position of the Democratic party in the early days of the Civil War period was that the power and authority of the federal government over all its territory and property, wherever located, was to be maintained at all hazards and that all attempts on the part of the Southern Confederacy to capture and hold government fortifications or reservations anywhere, or to invade the federal territory or that of any state not in revolt, were to be resisted and defeated at whatever cost. It was not generally held or believed by Democrats, however, that the general government would be justified in waging a war of subjugation against the seceding states; much less that it should carry on a war for the liberation of the southern slaves, which object was unhesitatingly avowed by some of the more radical leaders of the opposite party, even at that time. It was generally felt by Democrats, in and out of the Legislature, therefore, that this measure, considering the magnitude of the appropriation, and the vast power left by its terms in the hands of the governor, was unwarranted by the demands of the occasion, and effort was made to secure its modification in various directions, but without success.

The bill came up on second reading on Wednesday, June 26, when certain minor amendments were proposed and considered, but the measure was not then farther acted upon. On the fol-

lowing morning, however, the bill was taken up, on motion of Mr. Emery of Portsmouth. Mr. Blood of Hillsborough moved to make it the special order for the next day at 11 o'clock. Mr. Emery moved to amend by fixing the time at 4 o'clock that afternoon. Mr. Blood accepted the amendment, but expressed a desire for greater knowledge of the situation before final action, as did Mr. Bingham, who had no inclination to "approve, ratify and confirm" doubtful contracts, as he might be doing in voting for the bill, so far as he then knew. The bill was then made in order for 4 o'clock p. m.

When the bill came up, in order, in the afternoon, a motion was made by Mr. Blood of Hillsborough to amend by substituting $500,000 for $1,000,000, as the amount of the appropriation called for, and he proceeded to speak at some length in support of his motion and in general discussion of the situation. Mr. Emery of Portsmouth replied and was followed by Mr. Bingham in the most extended speech of the discussion.

In opening, Mr. Bingham said there were important objections to the bill and if its passage in the present form were urged, he should be compelled to vote against it. We all know the fact of war, he remarked. It has been in our thoughts by day and in our dreams by night. It is time for us to talk about and begin to comprehend it. We have seen the people rushing to the defence of their capital against threatened invasion, and it was one of the noblest spectacles our free institutions could have furnished; but he did not understand that there was now any danger of the capital being taken. The questions now forcing themselves upon our attention are: How shall we preserve our institutions? Is this war to be carried on for the subjugation of sovereign states, and to reduce them to the condition of conquered provinces? Does the gentleman from Portsmouth (Mr. Emery) take this position? he asked.

For his own part, Mr. Bingham declared, he believed, there were only two ways in which we could reclaim the seceded states—either by compromise or by subjugation. One means or the other must be adopted. He was for defence, but not for subjugation. We have been born and educated in a land of liberty and our supreme duty is to preserve the constitutional liberty which has

descended to us from the fathers. When we hold sovereign states by force of arms, ours is no longer a free government, but a military despotism. Coercion must necessarily result in national consolidation. If we subjugate, it necessarily follows that we abolish state rights. He had recently heard a remark attributed to the Secretary of War (Simon Cameron) to the effect that when this war is over we shall hear no more talk about "Virginians," "Pennsylvanians," and "New Yorkers," but we shall only be known as "Americans." In Mr. Cameron's judgment we are to have a national consolidation after the war; but, as for himself, he was in favor of the constitution as it is — of the government as it is — and opposed to consolidation. The necessary result of reducing states to subjugation by force must be to wipe out every vestige of their sovereignty; therefore, he was opposed to any coercion. He would defend the government property and the capital, whenever or by whomsoever attacked, but he protested against subjugation — against the conquest of sovereign states.

He illustrated by reference to the present condition of Mexico, where Santa Anna abolished state sovereignty and the result has been continual anarchy ever since, a republic existing only in name. If our government is thus consolidated the result must necessarily be the same. But our people will never submit to the anarchy and disorder of Mexican misrule. They will rather choose one strong man for a ruler and we shall have a Napoleon or a Cæsar for our future government. God deliver us from this! We must expect the most determined resistance from the states we attempt to subject. They are fighting on their own soil. We could bring ten men to defend our own borders, where we could carry one over there. We will find these people rallying as one man in defence of their own property and soil. An attempt to coerce and subjugate them must necessarily fail; and, if in the end, the states ever come together again, it will be, not through arms, but by compromise.

He objected to this administration or any other overturning the government, and he protested against it. It is the government that our fathers gave us — a government based on the constitution as it is and the laws as they are constitutionally made.

How shall we best preserve it? Life is nothing, money nothing, in defending it. To protect it is our sacred duty. Regarding the pending bill, he said he would vote for a million dollars if necessary; but he did not believe over half a million would be required. He protested, however, against a one-man power. "Eternal vigilance is the price of liberty." If you would preserve your liberties, preserve your constitution. Under this bill the governor can give such rank and such pay as he chooses. He may act fairly, but the bill gives him the power to do otherwise. He objected, decidedly to this feature of the bill. Why authorize the governor to fix the pay of the officers and not of the soldiers? Why not let all stand together, on existing laws in this respect? He approved of authorizing the governor to liquidate existing contracts, and saving him harmless from liabilities already incurred, and if the detailed information which had already been called for should prove satisfactory, there could be no objection to the first section of the bill.

At the conclusion of his remarks, Mr. Bingham moved that the bill be made the special order for the following day (Friday, June 28), at 11 a. m. Mr. Emery moved to amend by making the time that evening, which amendment was accepted, and the matter arranged accordingly; but the bill was not reached again, in fact, till the following afternoon, when discussion followed, participated in by Messrs. Hughes of Nashua, Woodman of Dover, Emery of Portsmouth, Bingham, and Smith of Wentworth. Mr. Hughes expressed his desire to sustain the government which both his grandfathers had fought to establish; but he deprecated the spirit of intolerance manifested by the supporters of this measure, relating the fact that when passing out of the hall the previous day, he heard a man declare that he "ought to be hung" for moving a reduction of the appropriation from $1,000,000 to $500,000; which circumstance goes to illustrate the bitterness of feeling that prevailed at the time. Mr. Bingham, in reply to Messrs. Woodman and Emery in their criticism of his remarks of the day previous, and their laudation of President Lincoln, expressed his satisfaction that free discussion was had. That the country was in a deplorable condition was not to be disputed, he said. He was for restoring

peace and there was no one willing to do more to effect such result; but it was to the government of our fathers and not to Mr. Lincoln, merely, that the people must look in the emergency. "I firmly believe," said he, "that the subjugation of sovereign states and the holding them as conquered provinces by despotic power, would be a most disastrous move. This is my view and I leave my record for the justification of coming time."

The question recurring on the motion of Mr. Hughes to amend by making the appropriation $500,000 instead of $1,000,000, the negative prevailed, the yeas and nays being demanded and the vote standing, yeas, 112; nays, 176.

Mr. Smith of Wentworth proposed to amend by inserting the word "lawful," so as to authorize the governor to respond to only lawful calls for troops by the president, and spoke earnestly in support of his motion. The House adjourned, however, to half-past seven in the evening, with the matter pending. Upon reassembling consideration of the measure was resumed, the question being upon Mr. Smith's motion which was rejected — yeas, 87; nays, 154.

Mr. Bingham then moved to amend by inserting: "Provided that such military force is not employed in subjugating and holding as a conquered province any sovereign state, now, or lately, one of the United States." He demanded the yeas and nays upon the question, the vote resulting: yeas, 92; nays, 165; and the amendment was rejected. The bill was then read a third time, and passed by a vote of 196 to 94, the yeas and nays having been called for by Mr. Abbott* of Concord, who desired to go on record in favor of the measure.

Mr. Bingham immediately gave notice that he should claim

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*David J. Abbott represented Ward 6, Concord, in the House in 1860 and 1861. He was a native of Auburn, Me., born July 26, 1820. He came to Concord when a young man and was employed as a painter by the Abbot-Downing Co., and subsequently by the Northern Railroad. In 1862–'63 he was a deputy assessor of internal revenue. In 1864 he went to Washington where he had charge of the government painting for several years. Subsequently he was made inspector and receiver of material for the new state, war and navy building, the work on which was in progress about ten years. He returned to Concord in 1884, and died April 27, 1889, being an alderman from Ward 6, at the time of his decease, and then serving on his second term.

his constitutional right to enter upon the journal his written protest against the passage of the bill.

Upon the afternoon of Tuesday, July 2, the bill for the reorganization of the militia being under consideration, Mr. Huntoon of Hanover offered an amendment, inserting the word "white," so as to exclude colored men from the service, but upon opposition expressed by Mr. Emery of Portsmouth, withdrew his amendment. Mr. Bingham thereupon immediately renewed it. He said the Constitution of the United States declared that the militia should consist of "free, white able-bodied citizens," and that the Governor of Massachusetts (Banks) had vetoed a bill in which the word "white" had been omitted. He declared that the Constitution was the supreme law of the land, and any act of any state against it, a violation thereof. He called for the yeas and nays upon his motion to amend and the same was rejected by a vote of 116 to 154. On the next and closing day of the session, however, reason and common sense in a measure resumed sway, and, on motion of Mr. Goodall of Portsmouth the House reconsidered its action and adopted this amendment by a vote of 221 to 32.

On the afternoon of this last day, also, Mr. Bingham presented, for insertion in the record, the protest against the "million dollar bill," notice of which he had previously given, the same being signed by himself and ninety other members. He proceeded to read the same, but had only partially completed the reading when Mr. Chamberlain of Keene arose and objected to further reading; but, on motion of Mr. Eaton of South Hampton, he was permitted, by a decisive vote to proceed, and completed the reading of the protest, which, with the signatures appended, here follows:

Protest Against The Passage of An Act Conferring Extraordinary Powers on the State Executive.

The undersigned claim their constitutional right of entering upon the journal of the House this their protest against the passage of a bill entitled "An act to aid in the defense of the country," with the following, their reasons therefor:

1. Because the bill compels us to approve, ratify and confirm "All payments made by the Governor and Council, or by

their authority and direction, in order to furnish troops from the State for the defense of the United States, or for enlisting, arming, equipping, disciplining, maintaining or transporting said troops, or in any way connected therewith;" of the nature, extent, validity and equity of which we know so little as to be entirely unable to form any definite judgment relative thereto, and because, from any information communicated to this House, we cannot assure ourselves or our constituents that it would be safe and proper for us thus to approve, ratify and confirm.

2. Because, by the provisions of this bill, the power to consider and determine what appropriations are necessary, and what disposition has been and shall be made of the money of the people, how and by what agents disbursed, and in what manner accounted for, is taken from the representatives of the people, to whom such power constitutionally belongs, and surrendered to the executive branch of the government.

3. Because we cannot permit transactions of any branch of the Government to be sealed up from the eyes of the people, or to be placed beyond their power to examine, inspect and judge.

4. Because we cannot regard the action of this House, in the rejection of the amendments proposed to the bill, as other than the assurance that the present war may be waged, by unlawful means, for conquest, subjugation, national consolidation, and the extinguishment of State sovereignties, and we are unalterably opposed to the attainment, by any means, of such objects.

Disavowing all considerations and motives of a partisan character, we enter our protest against this bill, because of its loose, irresponsible, extravagant provisions, and also because we desire to put upon the record our earnest will to protect the State against the exercise of a degree of executive power such as the Constitution never contemplated, and the people never before dreamed of. When such an extraordinary appropriation was submitted for our sanction, we had a right to know, and the people had a right to know, distinctly and specifically, where their money was to go, for what purpose it had been and was to be applied, and by what suitable checks its disbursement had been and was to be applied, and by what suitable checks its disbursement had been and was to be guarded. We cannot consent to give to the idle catch-phrases of the day the weight due alone to reason and argument. The political party to which we belong has, fortunately, no occasion for new and extraordinary demonstrations of devotion to the flag of our country. They have never heaped malediction upon it, or upon the Constitution. They have not only loved and honored it, but they have upheld and defended it at home and abroad, on sea and land,

at all times, and in all places. They have striven to "maintain the government" as it descended to them, and in the spirit which animated their fathers—not a "consolidated" government, such as is now occasionally foreshadowed, but a government composed of independent sovereign States, *united* for the purpose expressed, and clothed with the powers delegated by the States, and the people, and with no other. This Union, which has been our pride and delight, had its birth in the adoption of the Constitution. Upon that instrument, as its firm foundation, warmed and strengthened by glorious memories of the dangers, trials and privations of a seven years' conflict for independence, hedged all round by the forces of mutual affection and interest, it stood for the first fifty years in calm dignity, assuring fraternal regard among all its members,—safety for the rights of every citizen, of every latitude, throughout the broad extent of our land; an amount of individual and social freedom and prosperity hitherto unknown, security at home, and respect throughout the world. It was only when the provisions of the Constitution itself, relating to domestic servitude, came to be denounced and boldly repudiated, that all these great interests and precious blessings were seriously imperilled. We are ready to make any appropriation reasonable in itself and properly guarded, which looks practically to restored respect for constitutional rights, and, consequently to restored fraternity, unity, peace and prosperity. Nay more, for these objects we are ready to pledge, and we do hereby individually pledge "our lives, our fortune and our sacred honor." But we enter our solemn protest against making this the occasion for inaugurating in New Hampshire, legislation of which the bill just passed is a type. We will not sanction appropriations of the people's hard earnings, unheard of in amount, without figures, without facts, without sound reasons as a basis. This legislation, in our judgment, does little less than to invite peculation. It is not material that this debt is to be refunded, and that the bonds are to be redeemed this year, the next, or the year after. They are to be paid sometime, by us or by our children. It is vain to remind us of the old Latin maxim, so often reproduced of late, that in the midst of arms laws are silent. If we go back to the origin of that maxim, we shall find that in the midst of arms the best institutions have been overthrown, and, upon the tyrant's plea of necessity, great liberties have been crushed under the iron heel of military despotism. However important may be other objects contemplated, or to be achieved by this war, nothing can be more important than for the people to hold to their hands, with a firm grasp, all the rights which our fathers de-

livered to us; among these, and above all, the sacred and personal security of the *habeas corpus,* the freedom of opinion and the freedom of utterance. We have demanded a specification of the objects for which this unparalleled call upon the industry and income of our constituents is predicted. We have asked whether this war contemplates reunion, and if so, in what manner arms are to achieve that object. We have asked whether it means the desolation of Southern homes, the overthrow of Southern institutions, and the destruction of our own race there. We have demanded more perfect security for the economical, faithful, legitimate application of this vast amount of money, and the result is that we are turned round upon the privilege which we are thankful is yet reserved to us, of spreading upon the Journal of the House this our respectful, earnest, solemn PROTEST.

Harry Bingham,
Aaron P. Hughes,
William Barrett,
Charles J. Smith,
Thomas J. Smith,
Henry H. Smith,
J. C. Smith,
Thomas Smith,
James A. Morrill,
Asa Simonds,
Silas Dinsmore,
Moses F. Coolidge,
Cyrus Fowler,
Thomas Tarlton,
John Teel,
John G. Huntoon,
Daniel W. Bill,
Wells Currier,
E. M. Swett,
Richard Cole,
Daniel G. Stickney,
David Curtis,
Stephen C. Pattee,
George S. Rundlett,
A. G. Robie,
J. W. Lang, Jr.,
Levi T. Piper,
Douglas Robins,
John McIlvin,
Daniel Holt,
Daniel Marshall,
Charles F. Gallup,
William Clark,
Morrison Rowe,
E. T. Coleman,
Joseph P. Trefethen,
Simon Brown, Jr.,
Thomas Berry,
Elias M. Hall,
Charles S. George,
F. N. Blood,
Moses Eaton, Jr.,
James W. Abbott,
Fletcher I. Bean,
Hosea B. Aldrich,
E. B. Parker,
William L. Shattuck,
C. L. Plaisted,
John Proctor,
Wesley Knowles,
C. F. Montgomery,
A. Q. Wendell,
A. W. Harriman,
J. H. Taylor,
Phinehas Rosebrook,
Noah O. Smith,
Cummings Pierce,
Daniel George,
Ezekiel S. Flanders,
Samuel S. Plaisted,
Stillman Swallow,
Levi C. McDaniel,

Ebenezer S. Pike,
Nathaniel L. Sanborn,
Henry H. Dunklee,
Osgood Page,
Jonas Parker,
George W. Blakeslee,
Minot Farley,
F. A. Dolloff,
D. S. Ward,
Lyman Rounseville,
Ransom P. Beckwith,
A. C. Burnham,
Albert Brown,
George P. Clark,
Daniel Moore,
James Randall,
Ira M. Weeks,
John B. Favor,
Bradbury T. Brown,
E. H. Goodhue,
W. A. McGregory,
Reuben Loveren,
Levi Robinson,
J. V. Morse,
William H. Sawyer,
John McNeil,
John W. Sanborn,
Duren F. Stoddard,
Gilman Twitchell.

In the legislative session of 1862 Mr. Bingham's colleague in the House, from Littleton, was again Douglas Robins. Edward Ashton Rollins of Somersworth was reëlected speaker, Mr. Bingham himself being the Democratic nominee and receiving 114 votes to 193 for Mr. Rollins. Samuel D. Lord of Manchester was chosen clerk, and Benjamin Gerrish, Jr., of Dover, assistant clerk. Charles W. Woodman* of Dover was chairman of the judiciary committee; Aaron P. Hughes of Nashua had second place and Mr. Bingham, as in the year previous, was next in rank.

It will be noted that it had not come to be the custom, in those days, to "bunch" the minority representatives on the judiciary committee together at the "tail," as is now the case; but the more prominent of their number were given positions near the head. Other members of the committee included Messrs. Topliff of Manchester, Dearborn of Peterboro, Hobbs of Madison, Wil-

*Charles W. Woodman was a native of Rochester, son of Jeremiah and Sarah (Chase) Woodman, born December 7, 1809. He graduated from Dartmouth College in 1829, studied law with Ichabod Bartlett of Portsmouth and Richard Bartlett of Boston, was admitted to the bar in 1833, and opened an office in Great Falls, but removed to Dover in the year following and there continued till his death, January 24, 1888. He was solicitor for Strafford County from 1839 to 1841; Judge of Probate from 1841 to 1853; Associate Justice of the Court of Common Pleas from 1854 till the abolition of the court by the Legislature the following year; and for more than thirty years a United States Circuit Court Commissioner. He was a member of the Legislature in 1861 and 1862, and again in 1878 and 1879.

liam E. Chandler and Charles P. Sanborn of Concord, Daniel P. Wheeler of Orford and John M. Freese of Deerfield.

Included in the membership of the House this year were Henry O. Kent of Lancaster, James W. Patterson of Hanover, subsequently a representative and senator in Congress, and John Y. Mugridge and William L. Foster of Concord, the latter subsequently chief justice of the Circuit Court, also associate justice of the Supreme Court.

The delegation from the City of Concord was exceptionally strong that year, as the names already mentioned fully indicate. Mr. Chandler, who was then serving his first term, soon gained national distinction in political life; Mr. Sanborn, an able young lawyer, afterwards became speaker of the House, while Mr. Mugridge was long one of the most conspicuous members of the Merrimack County bar. In this connection it may not be improper to remark that there seems to be a growing inclination on the part of lawyers of ability to avoid the duties and responsibilities of public life, especially in the line of legislative service.

There was little excitement in connection with the proceedings of the House during this session, the only partisan demonstrations of any account being made in connection with certain election contests and an attempt on the part of the minority, led by Mr. Bingham, to secure the modification of certain resolutions reported from the committee on national affairs, by striking out a clause declaring, in substance, that as a matter of military necessity it became the right and the duty of the president, as commander-in-chief, "to confiscate the property of wilful rebels, to the full extent which such necessity may at any time demand." It was about this time, it will be remembered, that the more advanced or extreme among the supporters of the administration in the conduct of the war, had begun to read into the Federal Constitution, those extraordinary implied powers of the executive, which in more recent years have come to be regarded in various high quarters as a matter of course, but the exercise of which the Democratic party in those days regarded as nothing more nor less than rank usurpation.

The most interesting election contest was that which involved the unseating of Nathaniel P. Coleman, Democratic representa-

tive from the town of Newington. It seems that the town had voted, on the annual election day, not to send a representative that year; but at an adjourned meeting, on the day following, this vote was reconsidered, and, the Democrats being out in greater force than the Republicans, many of the latter having remained at home with the understanding that no representative should be chosen, an election was proceeded with, with the result that Mr. Coleman, having a decided majority of the votes cast, was declared elected, received his certificate and at the opening of the session, was duly qualified and took his seat. The Republican leaders of the town, however, assuming that they had been "tricked" by their opponents, put up a contest on ground of irregularity, depending upon the strength of partisan spirit for success, and succeeded in the closing days of the session, in ousting Mr. Coleman from his seat after quite a struggle, characterized by an earnest debate, in which Daniel Barnard* of Franklin, for the majority of the committee on elections, and Mr. Bingham, were the principal speakers, the arguments of the latter being so effective that several Republican members voted with the minority, the vote on the adoption of the resolutions for unseating Mr. Coleman, taken June 26, standing: Yeas, 153; nays, 125.

A legal debate of some interest, which occurred at this session, was that upon an act regulating the evidence in trials of actions on the case for slander, whose passage was strongly opposed by

*Daniel Barnard, long a leading lawyer of the state, was born in the town of Orange, in Grafton County, January 23, 1827. He was educated at Canaan Academy, and taught school for several winters in youth. When twenty-one years of age he was elected to the Legislature from his native town and three times successively reëlected. He studied law with Nesmith & Pike at Franklin, was admitted to the bar in 1854, and located in Franklin, where he remained in active practice up to the time of his death, January 10, 1892. He was a representative from Franklin in the Legislature in 1860 and 1862, a state senator in 1865 and 1866 (being President of the Senate the latter year) and a member of the executive council in 1870 and 1871. He was also solicitor for Merrimack County from 1867 to 1872, and a delegate to the Republican National Convention the latter year. In 1884 he was defeated as a candidate for the Republican nomination for Congress in the Second District by Dr. Jacob H. Gallinger, by a close vote. In 1887 he succeeded the late Col. Mason W. Tappan as attorney general, which office he held at the time of his death.

Mr. Foster of Concord, and advocated by Mr. Bingham, with the result that it passed by a decided majority.

At the close of the session, July 8, the customary resolution of thanks to the speaker was presented by Mr. Bingham, with felicitous words of commendation.

In 1863, Mr. Bingham had as his colleague in the House Mr. Franklin J. Eastman, a leading merchant of Littleton, a younger brother of Col. Cyrus Eastman, who subsequently removed to Northfield and was conspicuous in the business and political life of the town. William E. Chandler was chosen speaker, receiving 176 votes to 134 for Thomas J. Smith,* of Wentworth, the Democratic nominee. Samuel D. Lord was reëlected clerk and Benjamin Gerrish, Jr., assistant clerk.

Partisan feeling continued exceedingly bitter, and Democratic opposition to the administration policy in the conduct of the war was generally and often strongly manifested. There had been no election of governor by the people. Hon. Ira A. Eastman of Gilmanton, an able man and distinguished lawyer, who had served four years in Congress — from 1839 to 1843, and six years as an associate justice of the Supreme Court — from 1849 to 1855 — was the Democratic candidate and had come very near to an election, receiving 32,833 votes to 29,035 for Joseph A. Gilmore, the Republican nominee; but Gen. Walter Harriman, who had left his party and been nominated by the "War Democrats," so-called, had 4,372 votes, thus defeating a choice, so that the election was thrown into the Legislature, which, of course,

*Thomas J. Smith was a native of Dorchester, N. H., born April 18, 1830. He graduated from Dartmouth College in 1852, studied law with Jonathan E. Sargent at Wentworth and was admitted to the bar in 1855, and commenced practice in that town, where he had been appointed postmaster while yet a student in 1853, holding the office till 1861. He was chosen to the Legislature for five successive year from 1861 to 1865, inclusive, and was among the active leaders on the Democratic side from the first. In 1866 he was chosen to the State Senate from the Twelfth District, and reëlected in 1867. In 1868 he removed to Dover, where he remained in the practice of his profession till 1886, meanwhile serving as Clerk of the Senate in 1874 and 1875, and Secretary of the Constitutional Convention of 1876. In 1886 he was made Deputy Naval Officer at Boston, and the following year was appointed Solicitor of Internal Revenue by President Cleveland, continuing till 1889. Later he was in railway service in New Jersey and died at Manasquan, in that state, May 1, 1892.

elected Gilmore, minority candidate though he had been before the people.

The chairman of the judiciary committee, this year, was Daniel M. Christie* of Dover, a lawyer of preëminent ability, who had seen much service in the House, in earlier years, Mr. Bingham being now accorded second place, with Blood of Hillsborough and Smith of Wentworth, following, and Barton of Newport, Rolfe of Concord, Clarke of Manchester, Burleigh of Somersworth, Morgan of Francestown and Leavitt of Hampton constituting the balance.

Although strong in the Legislature the Republican party's control of the state was by no means assured, and the leaders looked to the Legislature for the enactment of some measure or measures that should operate to the party advantage. To this end it was proposed to pass an act by which the votes of the soldiers from the state in the government service could be utilized, it being realized that such votes could mainly be controlled in the interest of the party in charge of the national government. An act was finally drawn, by whose terms the New Hampshire soldiers who were legal voters in the state were authorized to vote by proxy in the several towns and wards from which they entered the service, and the same, entitled "An Act to secure the right of suffrage to qualified voters in the

*Daniel M. Christie was a native of the town of Antrim, born October 15, 1790. Under discouraging circumstances he worked his way through college, graduating from Dartmouth in 1815. He studied law with James Walker of Peterborough, and commenced practice at York, Me., removing shortly to South Berwick and in 1823 to Dover, where he continued through life, gaining a reputation as a sound and able lawyer second to that of no man of his time. He had no taste for political life, but answered all calls of the people, and served his town and city in the Legislature in twelve different years in all, commencing in 1826. That he was not called to national legislative service was due to the fact that his alliance was with the minority party in the nation, during the most of his active life, as was precisely the case with Mr. Bingham, although they were members of opposing parties. Mr. Christie was an old man when brought in close contact with Mr. Bingham in committee service in this Legislature, but it is known that each formed a high estimate of the character and abilities of the other. Dartmouth College conferred upon Mr. Christie the degree of LL. D. in 1857. He was twice offered the position of Chief Justice of the Supreme Court of New Hampshire, but declined the same in each instance. He died at Dover, December 8, 1876.

state engaged in the military or naval service of the state or the United States,'' was introduced in the House on the 8th of June by Mr. Barton of Newport. It was laid on the table to be printed, on motion of Mr. Foster of Concord and copies sent to the justices of the Supreme Court for their opinion as to its constitutionality. Three days later, on motion of Mr. Barton, it was taken from the table and referred to the committee on the judiciary, by a vote of 119 to 110, with instructions to consider the same and report as soon as practicable.

Though the proposition embodied in the bill was a subject of animated discussion among the members individually, and on the part of the press and the people of the state, it was not brought before the House for action for some time, and it came to be understood that the Supreme Court justices regarded the measure as unconstitutional, though nothing had been heard from them directly regarding the matter. On June 24, Mr. Sinclair of Bethlehem introduced a resolution which was adopted, as it could not be consistently opposed, instructing the judiciary committee to inquire whether the Supreme Court had been properly notified of the requirement of the House in relation to the bill in question, and if so, if the same had been considered and a determination reached; if not to ascertain why, and if a decision might be hoped for during the session.

As bearing directly and strongly upon the much mooted matter of soldiers' votes, Mr. Sinclair on the same day introduced another resolution in the House, as follows:

Whereas, the President of the United States has dismissed Lieutenant Andrew J. Edgerly* from the military service for voting the Democratic ticket in our late state election, in accordance with the following order:

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*Andrew J. Edgerly was a native of the town of Barnstead, born in the year 1828. He learned the trade of machinist early in life, and was engaged in the employ of the Amoskeag Manufacturing Company at Manchester, where, in 1861, he enlisted in the Third New Hampshire Regiment, and subsequently in the Fourth, in which he was commissioned second lieutenant of Company E, and promoted to first lieutenant January 17, 1862. He was wounded, and after a time sent home on recruiting service, in which he was engaged at the time of the March election in 1863, when he voted and worked for the Democratic ticket, and immediately after which his dismissal came. He subsequently removed to the town of Haverhill, from

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
WASHINGTON, March 13, 1863.

Special Order No. 119 (Extract)

34. By direction of the President, the following officers are duly dismissed from the service of the United States: Lieut. A. J. Edgerly, 4th N. H. Volunteers, for circulating "Copperhead tickets" and doing all in his power to promote the success of the Rebel cause in his state.

By order of the Secretary of War,
L. THOMAS, *Adjutant-General.*

To the Governor of New Hampshire.

And Whereas, the people of New Hampshire, irrespective of party, have furnished in full their quota of men and money to carry on the war for the restoration of the Union and the maintenance of the Constitution, and Whereas the candidate for Governor upon the Democratic ticket stigmatized in the above order as the "Copperhead ticket," received nearly one-half of all the votes of the electors cast, and several thousand more of their votes than any other candidate for that office, including the one who was supposed to particularly represent the views and purposes of the national administration; and Whereas, the above order, in its dismissal of Lieut. Edgerly for the reasons therein assigned, falsely assumes the cause of the Democratic party to be the rebel cause, thereby indirectly charging nearly one half the people of New Hampshire with the guilt of treason; and Whereas, our liberties cannot exist without the preservation of the freedom of elections, therefore

Resolved, That we disapprove the above order as a foul slander upon the Democratic party, as unjust to Lieut. Edgerly, as insulting to the people of New Hampshire and as endangering our free institutions by establishing a precedent of unwarrantable interference with the freedom of elections.

This resolution, on motion of Mr. Sinclair, was referred to the committee on the judiciary.

On June 27, Mr. Christie of Dover, chairman of the judiciary

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which he was elected a representative in 1874. He was appointed adjutant general of the state that year by Governor Weston, and served till 1876. He died at Medford, Mass., February 26, 1890. That his dismissal from the military service of the government was an act of gross injustice, inspired by partizan malignity rather than any patriotic sentiment is shown by the fact that a subsequent careful investigation of the case was made by the committee on military affairs of the National House of Representatives, resulting in the passage of a bill by Congress fully exonerating him, and giving him an honorable discharge dating from March, 1863.

committee, on behalf of a majority of said committee, reported the bill to the House favorably without amendment. The speaker at the same time presented the opinion of Chief Justice Bell and Associate Justices Bellows, Nesmith and Bartlett, to the effect that the bill, in its most prominent feature, was in conflict with the spirit and provisions of the constitution of the state.

A minority report from the judiciary committee, signed by Messrs. Bingham, Blood and Smith, and manifestly written by Mr. Bingham, was presented, as follows:

1. The undersigned regard the said proposed bill as a palpable violation of the plainest provisions of the Constitution of the State of New Hampshire.

2. If said bill were constitutional it proffers nothing to the soldier but a shadow, for it does not secure to him the right of suffrage free from coercion and fraud; nor does it provide any adequate protection against the frauds which may be, and in all human probability will be attempted upon the law, thereby furnishing a means for the destruction of the freedom and purity of the elections, for the overthrow of our free institutions and substituting in their place, as chance may dictate, either despotism or anarchy. And we, therefore, recommend the following resolution:

Resolved, That the said bill be indefinitely postponed.

The whole subject was then recommitted to the judiciary committee, from which committee, on July 3, a resolution was reported by Mr. Barton, and unanimously adopted, postponing the bill until the next session of the Legislature.

On the same day, July 3, a majority report from the judiciary committee, relieving the committee from further consideration of the Edgerly resolution, came into the House. A minority report, signed by Messrs. Bingham, Blood and Smith, was also presented, recommending the adoption of the resolution, which latter report was advocated by Messrs. Sinclair and Bingham, but the matter went over, undisposed of, giving place to the general order.

On the same day, also, a majority of the select committee on national affairs sent in a report recommending the adoption of certain accompanying resolutions, embodying the idea of constitutional construction which had been adopted by the federal administration, concerning the powers of the executive, and

to which the Democratic party generally took exception. This report was signed by Daniel M. Christie, Henry P. Rolfe, Stephen G. Clarke, Levi W. Barton, Oliver P. Hubbard and I. D. Stewart.

A minority report from the same committee was presented at the same time, signed by Harry Bingham, John G. Sinclair, Thomas J. Smith and William W. Bailey, evidently written by Mr. Bingham, which was as follows:

MINORITY REPORT.

We, the undersigned, a minority of the committee on national affairs, beg leave to present the following resolutions, and to recommend their passage.

HARRY BINGHAM,
JOHN G. SINCLAIR,
T. J. SMITH,
W. W. BAILEY.

Resolved, We do solemnly, and without mental reservation, declare our fidelity to the Constitution of the United States, and to the laws of the United States made in pursuance thereof, as the supreme law of the land, and we will, to the best of our ability, support, preserve, protect and defend the Constitution of the United States against all of its enemies, and we demand of all public rulers and magistrates, State and National, that they shall do likewise.

2. We repudiate, as dangerous and revolutionary, the doctrine that a state of war confers upon the President of the United States, or his subordinates in authority any powers, executive, legislative or administrative, over persons or property, above or beyond what are vested in him or them by the Federal Constitution. We admit no military necessity to justify any violation of the Constitution, which is the guide and safeguard of rulers and people alike, in peace and in war, and in all conditions of public affairs the military should ever be subordinate to the civil power.

3. That there is a manifest difference between the administration of the government and the government itself. The government consists of the civil and political institutions created by the Constitution, and to it the people owe allegiance. The administration are but the agents of the people, subject to their approval or condemnation, according to the merit or demerit of their acts.

4. That in the exercise of the right to differ with the Federal Executive, we enter our solemn protest against the Proclamation of the President of the United States, dated the first day of

January, one thousand eight hundred and sixty-three, by which he assumes to emanicipate slaves in certain states, holding the same to be unwise, unconstitutional and void.

5. That we declare our determined opposition to a system of emancipation by the states upon compensation to be made out of the treasury of the United States as burdensome upon the people, unjust in its very nature, and wholly without warrant of the Constitution.

6. That we declare that the power which has recently been assumed by the President of the United States, whereby, under the guise of military necessity, he has proclaimed and extended — or asserts the right to proclaim and extend — martial law over states where war does not exist, and has suspended the writ of *habeas corpus*, is unwarranted by the Constitution, and its tendency is to subordinate civil to military authority, and to subvert our system of free government.

7. That we hail with pleasure and hope the manifestations of conservative sentiment among the people of the Northern States, in their elections, and regard the same as earnest of a good purpose on their part to coöperate with all other loyal citizens in giving security to the rights of every section, and maintaining the Union and Constitution as they were ordained by the founders of the Republic.

8. That whenever it becomes practicable to obtain a convention of all or three fourths of the States, such body should be convened for the purpose of proposing such amendments to the Federal Constitution as experience has proved to be necessary to maintain that instrument in the spirit and meaning intended by its founders, and to provide against future convulsions and wars.

9. That the soldiers composing our armies merit the warmest thanks of the nation. Their country called, and nobly did they respond. Living, they shall know a nation's gratitude; wounded, a nation's care; and dying, they shall live in our memories, and monuments shall be raised to teach posterity to honor the patriots and heroes who offered their lives at their country's altar. Their widows and orphans shall be adopted by the nation to be watched over and cared for as objects truly worthy a nation's guardianship.

10. That the arrest, imprisonment, pretended trial, and actual banishment of Clement L. Vallandigham, a citizen of the state of Ohio, not belonging to the land or naval forces of the United States, nor to the military authority, for no other pretended crime than that of uttering words of legitimate criticism upon the conduct of the Administration in power, and of appealing

to the ballot-box for a change of policy (said arrest and military trial taking place where the courts of law are open and unobstructed, and for no act done within the sphere of active military operations in carrying on the war), we regard as a palpable violation of the following provisions of the Constitution of the United States:

1. Congress shall make no law . . . abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

2. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

3. No persons shall be held to answer for a capital or otherwise infamous crime unless on a presentment or an indictment of a grand jury, except in cases arising in the land or naval forces; or in the militia when in actual service in time of war or public danger.

4. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law.

July 9, the reports on the Edgerly resolution again came up as unfinished business, the question being on a pending motion by Mr. Page of Gilmanton to indefinitely postpone the same. The yeas and nays were demanded on the motion, by Mr. Bingham and the affirmative prevailed: Yeas, 172; nays, 129.

The reports from the committee on national affairs did not come up for final action until July 10, when Mr. Sinclair moved to substitute the minority for the majority report, upon which motion Mr. Bingham demanded the yeas and nays, the vote resulting: Yeas, 122; nays, 162; so the motion was lost.

Mr. Bingham then moved to amend the majority report by adding:

Resolved, That the people of New Hampshire will never consent to any abridgment of the freedom of speech and of the press; nor to any interference with the freedom of elections, in violation of the Constitution and laws of the state or the United States.

Mr. Clarke of Manchester offered a substitute for this, which was finally adopted, as follows:

Resolved, That free thought, free speech and a free press are indispensible to the maintenance of free institutions, and that we condemn any interference with their exercise by either mob violence or executive power.

The majority report, as amended, was then adopted, 171 to 110.

In 1864 Mr. Bingham again had as his Littleton colleague in the House, Mr. Franklin J. Eastman. The House organized by the reëlection of William E. Chandler of Concord as speaker (he receiving 201 votes to 109 for John G. Sinclair, the Democratic nominee), and the choice of Benjamin Gerrish, Jr., of Dover as clerk, and Charles B. Shackford of Conway as assistant clerk. Levi W. Barton* of Newport was named as chairman of the judiciary committee, with Aaron W. Sawyer of Nashua in second place, and Mr. Bingham following, the remaining members being, Messrs. Smith of Wentworth, Sinclair of Bethlehem, Clarke of Manchester, Burleigh of Somersworth, Wheeler of Dover, Leavitt of Hampton, and Hackett of Portsmouth.

No serious attempt was made at the June session to pass the soldiers voting bill, which had been postponed from the session of the previous year, and the same was finally indefinitely postponed. Subsequent events proved, however, that the friends of the movement had by no means abandoned it.

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*Levi W. Barton, born in Croydon, March 1, 1818, died in Newport, March 10, 1899. He received his preliminary education in the public schools and Unity Academy, taught school several winters, and was married at an early age. His wife dying, he changed his plans and determined to secure a college course and enter professional life. He fitted for college at Kimball Union Academy, entered Dartmouth and graduated in 1848 with James W. Patterson, Henry P. Rolfe and Anson S. Marshall. He commenced the study of law at Hanover, during his senior college year, with Hon. Daniel Blaisdell, and continued, after graduation, with Judge Kittredge at Canaan, where he became principal of the Academy, and also postmaster, continuing until the completion of his studies, in 1851, when he settled in practice at Newport and there remained. He was register of deeds for Sullivan County from 1855 to 1857, and solicitor from 1859 to 1864. He was a representative in the Legislature in 1863 and 1864, and again in 1875, 1876, 1877, meanwhile serving in the Senate in 1867 and 1868, making seven years of legislative service, during five of which he was judiciary chairman. He served in the Constitutional Convention of 1876, was a presidential elector the same year, and a member of the commission to revise the laws in 1877.

While the war excitement was still high, and partisan feeling upon issues growing out of the war as intense as ever, other matters occupied the attention of the Legislature to a considerable extent, one of these and decidedly the most exciting, being the question of a new state house, and the location of the same. There was a hot fight between Manchester and Concord, with the result that the latter triumphed, retaining the capital upon condition of furnishing a new building, free of cost to the state, in accordance with plans submitted to and approved by the Legislature. The test vote had come on the Manchester proposition which was defeated—92 to 190. Mr. Bingham took no active part in this controversy, though his vote is recorded with the affirmative, in favor of Manchester, only two other members from Grafton County voting with him — Messrs. Sinclair of Bethlehem and Dean of Danbury.

Another matter which commanded a good deal of attention at the time was a bill introduced at this session authorizing the governor and council to commute the sentence of one Thomas Wier* who had been tried, convicted and sentenced, in the Graf-

*Thomas Weir, an Enfield shoemaker of intemperate habits, then about 45 years of age, enlisted in the Fifth New Hampshire Volunteers in August, 1861. Before departing for the front he placed his two youngest daughters with the Shaker Society at Enfield, agreeing never to take or attempt to take them away so long as they were contented to remain. In May, 1862, he was discharged from the army for disability, and finally made his way back to Enfield. After a time he wanted his daughters, and sought to get them back from the Shakers, but was refused. Angered by repeated refusals, he procured a revolver, and, on the 18th of July, met Caleb M. Dyer, trustee of the society, in the highway near the Shaker home, again demanding the children and, being again refused, he deliberately shot Dyer through the abdomen, inflicting a wound from which he died in about forty-eight hours. Weir was arrested, confined in the jail at Haverhill, indicted, tried at the September term of court following, convicted of murder and sentenced. Justices Sargent and Doe presided at the trial, the prosecution was conducted by Attorney General William C. Clarke, assisted by County Solicitor Alonzo P. Carpenter, and C. W. and E. D. Rand were counsel for the respondent. A good deal of maudlin sympathy had been aroused in Weir's behalf from the fact that he had been a Union soldier, which in those days of war excitement was sufficient "to cover a multitude of sins," and the result was the presentation of petitions to the Legislature, and the inauguration of a strong movement in that body for commutation, which finally culminated in the passage of the bill in question. Weir remained in prison though several attempts were made to secure a pardon, till in July, 1880, he was pardoned by Gov. Natt Head and set at liberty. He returned to Enfield, and lived quietly in that and the adjoining town of Lebanon for many years, dying at East Lebanon in 1898.

ton County Court, for the murder of Caleb M. Dyer, at Enfield. Petitions were presented asking for the commutation of Wier's sentence and the same were referred to a special committee, appointed on the 9th of June, Samuel M. Wheeler* of Dover being chairman. This committee, after a good deal of deliberation, reported an act authorizing the governor, with advice and consent of the council, to commute Wier's sentence. It was read and came up for consideration as a special order on the afternoon of July 8, when it was debated at some length, Mr. Bingham speaking in opposition to the measure. He declared that the crime of which this man, Wier, was convicted after a full, fair and impartial trial, was a cold-blooded murder of the most atrocious kind, as was admitted in all quarters. He questioned the ground upon which the measure was predicated; and the constitutional warrant of the Legislature to do anything with the matter, under any circumstances. The constitutional principle was that each department of the government should act independently of the others. It was the business of the Legislature to make laws and those laws were to be applied by the Judiciary to the offences committed in the community. The Judiciary is not to interfere with the business of the Legislature; nor is the Legislature to interfere with the judgment of the Judiciary when rendered. The pardoning power is vested in the Executive, and if there are any circumstances in this case calling for the exercise of this power, the matter should be left to the Executive untrammeled or uninfluenced by any legislative action.

The measure remained undisposed of at this time and its further consideration was made a special order for the following

*Samuel M. Wheeler, son of Albira and Melita (Metcalf) Wheeler, was born in Newport, May 11, 1823, and died in Dover, January 21, 1886. He was educated in the academies at Claremont and at Newbury, Vt., and in the military academy at Windsor. He studied law with Tracy & Converse at Woodstock, Vt., and Ralph Metcalf of Newport and commenced practice in the latter town, removing to Fisherville, now Penacook, a year later, and to Dover in 1853, where he continued through life, attaining high rank in his profession, especially as a jury lawyer. He was for a time in partnership with Hon. Joshua G. Hall, subsequently a member of Congress. He served in the Legislature in 1864 and 1865; also in 1868, 1869 and 1870, the last two years occupying the speaker's chair. He was a member of the Constitutional Convention of 1876. Dartmouth College bestowed upon him the honorary degree of Master of Arts in 1866.

Tuesday, July 12, at 2 o'clock, p. m., when it was again taken up and discussed at some length, Mr. Bingham making the principal speech in opposition. He took the ground in the first instance, that the proposed act involves a principle that would render the labors of the court useless, however impartial and painstaking they might be, and open the door of escape for criminals, thus striking at the very foundation of society. He contended that the power to commute did not rest in the Legislature, whose powers were limited to those given by the express terms of the Constitution. The pardoning power was vested in the Governor and Council, and, the less being included in the greater, the power to commute was in their hands alone, and the Legislature had no control over it. He referred to the Common Law and the Statutes of Great Britain and the colonies to show that the power of pardon included commutation, or conditional pardon as well as absolute pardon, and cited various authorities to show that the framers of the Constitution accepted the doctrine of the Common Law in this regard.

Having considered the question in its legal aspects, Mr. Bingham went on to inquire why the House should be called upon to interfere in this case in this obnoxious manner. Why not pass a general law empowering the Governor and Council to commute all sentences of a like character? What special claim, he asked, had this particular criminal over every other who had been visited with the sentence of the law? He regarded it as extremely dangerous for the House to interfere in the matter in this way, and thought the probable mischief that would follow should lead members to hesitate about giving the measure their sanction. He deprecated the manifest sympathy flowing out toward the murderer, on the part of the advocates of the bill, who seemed to have lost sight of the victim — a peaceable, exemplary and worthy man, severely criticised the action of the committee having the matter in charge in receiving *ex-parte* testimony, not given under oath, and sharply exposed the inconsistency of the arguments presented by the supporters of the measure, some of whom held the prisoner to be insane, and yet contended that the evidence showed him guilty of murder in the second degree, or manslaughter, which would be impossible if he

were insane. For his own part he characterized the crime of Wier as a murder as cold-blooded as was ever committed by man.

In conclusion Mr. Bingham referred to the fact that no application had been made to the court for a new trial, which would be the proper course to pursue if new evidence had been obtained, or if the verdict was considered as against the evidence. He did not know but a law repealing the death penalty would be wise at this time; but he objected to an effort being made to attain this end in this case, evidently, on the part of the opponents of capital punishment, through the passage of a bill like that before the House.

After a somewhat protracted discussion, in which the bill was earnestly supported by Chairman Wheeler and other members of the special committee by which it was reported, it again went over until the following forenoon, when it was ultimately passed, but not without material amendment. Mr. Cate of Northfield offered an amendment so changing the measure as to authorize the governor and council to commute any capital sentence, and accepted an amendment to this amendment providing that the bill should not be construed as an expression of opinion on the part of the Legislature that the Wier sentence should be commuted. This amendment was adopted, and the bill then passed by a vote of 193 to 82, Mr. Bingham demanding the yeas and nays and himself voting against the bill.

At this session the Legislature passed a resolution calling upon the New Hampshire representatives in the National House to concur with the Senate in the adoption of a resolution that had already passed the latter body, submitting the then proposed Thirteenth Amendment to the Federal Constitution, abolishing slavery, to the legislatures of the several states for ratification. This resolution was introduced by Stephen G. Clarke of Manchester, June 3, and referred to a special committee of five, consisting of Messrs. Clarke, Downs of Lebanon, Swett of Andover, Bickford of Dover and Cate of Northfield. The majority of the committee, Messrs. Clarke, Downs and Bickford, Republicans, reported the resolution favorably, June 9, and on the following day, Messrs. Swett and Cate, the Democratic minority, presented

a report recommending indefinite postponement, for reasons succinctly set forth. The two reports were made a special order for the following day, but did not come up for consideration till June 15, when a motion to indefinitely postpone, made by Smith of Wentworth, was defeated — yeas, 99; nays, 180. Mr. Bingham did not discuss the resolutions, but spoke briefly against a motion to suspend the rules and adopt the resolution at that time. The matter went over another day and the resolution was adopted by a vote of 160 to 103, the yeas and nays being demanded by Mr. Smith of Wentworth.

The Legislature of 1864 not having completed its work to the satisfaction of the Governor, at the regular session, or exigencies having arisen which, to his mind, warranted such action, soon after adjournment he issued a proclamation summoning it to meet in extra session on August 9. The first bill introduced at this session (though not in line with any purpose of the Governor in calling the same) was a new soldiers voting bill, presented by Mr. Dodge of Londonderry, August 10. It was entitled "An Act to Enable the qualified voters of the State, engaged in the military service of the country to vote for electors of President and Vice President of the United States and for Representatives in Congress." The proxy voting plan had been abandoned, and the measure provided for voting directly by the soldiers in the field. The bill was referred to the judiciary committee and on the day following a majority of the committee, through Mr. Wheeler of Dover, reported the same, favorably without amendment. The following minority report, signed by Mr. Bingham and John G. Sinclair, and evidently written by Mr. Bingham, was also submitted:

MINORITY REPORT.

The undersigned, a minority of the committee to whom was referred the bill to enable persons in the military service to vote, cannot concur in the report of the majority of said committee, in favor of the passage of said bill, for the following reasons:

Because the most important provisions of the bill are in violation of the letter and spirit of our federal and state constitutions.

Because the bill opens the door to the grossest frauds in the

exercise of the elective franchise and endangers the freedom and purity of our elections.

By the provisions of the bill the determination of the right to vote, the conduct of the elections and the returns of the canvass, are entrusted entirely to the officers at the time in command of each company, whoever they may happen to be. They will be far removed from the state, not liable to its control nor accessible to its laws. And, were it not so, they could act with impunity, because the bill provides no penalty whatever for any misconduct or wrong on their part, however gross or willful. It simply requires an oath, but affixes no penalty to the violation of it. And no provision is made for any revision and correction of their proceedings, even if wrong should clearly appear. In the determination of the right to vote the bill requires no reference to the check-list in the towns, but leaves it to be determined absolutely by the officers, from such evidence as they may be able to obtain, or may choose to hear; and although the voter may be required to testify under oath, yet such oath, however false, is not punishable with any penalty.

This brief statement shows how fully all the safeguards, which our laws so wisely and carefully throw around elections at home, are disregarded in the provisions of this bill for elections in the field where greater exposure to abuse and wrong requires additional protection. Occurrences in other states, and particularly one within our own, show that the fears suggested by these objections are not groundless. Military power has been wantonly exercised by the highest officer known to our laws, even under all the obligations of his high official position, for the proscription and disgrace of a meritorious officer, Lieut. Andrew J. Edgerly, on account of the quiet exercise of his undoubted right as a citizen voter of this state. With such an example what may we not reasonably expect under a bill like this, by which the whole conduct of an election by soldiers in the field is committed to the officers in immediate power over them?

We therefore submit the following resolution:

Resolved, That the further consideration of said bill be indefinitely postponed.

HARRY BINGHAM,
JOHN G. SINCLAIR.

The question being stated—"Shall the bill be read a third time?"—Mr. Bingham moved that the reports and bill be laid on the table, and that the clerk be directed to furnish a copy of the bill to each of the judges of the Supreme Court, with the

request that they confer, and report to the House, at the earliest practicable moment, their opinion upon the constitutionality of the bill.

The yeas and nays being demanded upon the motion, the vote resulted — yeas, 108; nays, 183; Mr. Bingham and the Democrats generally voting yes.

On the following day, August 11, Mr. McNeil of Hillsborough, moved to amend the bill by striking out all after the enacting clause, and inserting the following:

SECTION 1. All qualified voters of the State who shall be in the actual military service of the United States on the days appointed by law for the choice of Electors of President and Vice President of the United States, and for Representatives of this State in the Congress of the United States, shall be entitled to exercise the right of suffrage for said officers in the several cities and towns from which they were enlisted.

SECT. 2. The Governor is hereby authorized and required to request the Secretary of War to grant thirty days furlough to all such qualified voters to return to their respective residences, in order to so exercise their right of suffrage, in the same way and manner in which special furloughs were granted at the last March election, provided that they shall not be pledged to vote for any particular candidate.

The yeas and nays being called on the adoption of the amendment it was defeated — yeas, 106; nays, 167.

An amendment was subsequently adopted, on motion of Mr. Sawyer of Nashua, making the act inoperative if determined unconstitutional by a majority of the Supreme Court, and making it the duty of the governer to obtain an opinion of the court upon the question, and make it public through the newspapers before the next presidential election. The bill was then passed — 178 to 107.

The attention of the Legislature during this extra session was mainly directed to matters connected with, or growing out of, the Civil War, and its prosecution on the Union side, and omission should not be made of the fact, in this connection, that when a majority of the committee on the judiciary, to which had been referred, an act providing for the assumption by the State of certain expenses and indebtedness incurred by the several cities and towns in connection with the raising of troops, reported a

resolution postponing the same to the next session of the Legislature, Messrs. Bingham and Sinclair presented a minority report, recommending the passage of the act as a measure of justice to the small towns, many of which had been subjected to an undue burden of expense.

The majority report was adopted, however, by a vote of 148 to 109, the Democrats largely voting against it.

On August 16, the bill entitled "An Act to facilitate the raising of troops" being under consideration, which measure was finally passed, Mr. Bingham moved to amend by striking out the words — "which said sums are to be paid in currency and not in coin," his purpose being to insure for the soldier bounty payments on a gold basis, instead of "depreciated currency" against which so much has been said in later days; but his motion was lost, 90 to 109, the Democrats in this case also largely voting in the affirmative. Toward the close of the extra session of 1864 occurred one of the most exciting and disorderly episodes ever known in the legislative history of the State. The soldiers voting bill, which had been passed in the House and sent to the Senate, had finally passed the latter body and been sent to Governor Gilmore* for his approval. It had been in his possession nearly up to the limit of time allowed him for action, and the course which he might pursue in reference to it was awaited with deep interest on all sides, since it was generally felt that the soldier vote in the approaching presidential election might determine the outcome in the state as between the two great parties.

Strong pressure had been brought to bear upon the Governor

*Joseph A. Gilmore, son of Asa and Lucy (Dodge) Gilmore, was born in Weston, Vt., June 11, 1811. His educational advantages were limited, but he was energetic and ambitious, and at an early age went to Boston where he was for some time employed in a store and then went into business for himself. In 1842 he removed to Concord, N. H., where he engaged in the wholesale grocery business, continuing till 1848 when he went into railroading. He was construction agent for the Concord and Claremont Railroad, building the line to Bradford, and was subsequently superintendent of the Concord, Manchester and Lawrence, Concord and Portsmouth, Concord and Claremont and the Contoocook Valley roads. He was an active Republican, and was elected to the State Senate in 1858 and again in 1859 when he was president of that body. He was the Republican candidate for governor in 1863, and was elected by the Legislature, there being no choice by the people. The following year he was reëlected by popular vote. He died in Concord, April 16, 1867.

both for and against his approval of the measure, not only because of opposing views as to its constitutionality, but because of its anticipated effect, and, although the Governor was himself a Republican, the Democrats, who generally opposed the measure, were not without hope that he would ultimately veto it. Finally, on Tuesday, August 24, it was whispered about that the Governor had at last acted and that a message might be expected from him in the House that afternoon, returning the bill without his approval. Indeed the majority leaders seemed to have determined upon a definite plan of action in reference to the reception of the message, and the same developed during the afternoon. Their purpose, as subsequently became apparent, was to stave off its reception by the House, until there should be no question that the five days' limit, during which the Governor may hold an act that has passed the Legislature in his possession without action, before it becomes a law without his approval, had been passed, before allowing it to come in. To this end it is at least alleged that they arranged with the secretary of state, through whom the Governor ordinarily communicates with the Legislature, that he should be conveniently absent from the state house during the afternoon.

Upon the coming in of the House at two o'clock in the afternoon of the day in question, Mr. Sinclair of Bethlehem presented a document which he stated to be a message from the Governor. The speaker declined to receive it, except by direction of the House, declaring that it was not presented through the proper medium, and directed the doorkeeper to return it to Mr. Sinclair. Mr. Sinclair then started to read the message to the House; but the speaker ruled him out of order, declaring that the reading could only proceed by vote of the House.

Mr. Bingham hereupon appealed from the speaker's ruling. He declared that the gentleman from Bethlehem had a right to make remarks as preliminary to a motion, and a right to read the document as a part of his remarks. This matter, he declared, was one of transcendent importance. Here was an attempt to trample upon the constitutional rights of the people — an attempt by one branch of the government to trample upon another branch. Here was an attempt which upon its face

seemed nothing more nor less than revolution; an attempt to prevent the Governor from formally returning, in accordance with his constitutional right, a bill to the House. He appealed to every patriotic member to aid in preserving the Constitution by refusing to sustain the arbitrary action of the speaker. Once cut loose from the Constitution and where are we? he asked. Under the domination of the strongest arm, which may belong to the worst man in the country!

Mr. Sawyer of Nashua addressed the House, declaring that the bill had already become a law by limitation, the five days during which the bill might be retained having already expired.

Mr. Little of Manchester claimed that the limit had not been passed, since the bill went to the Governor on Thursday, and Sunday and Monday were not legislative days and could not be included in the reckoning.

Protracted debate ensued and the greatest disorder and confusion prevailed. Mr. Sinclair again got the floor, and went on to say that the secretary of state had absented himself, or at least could not be found, and unless some member could present the message there could be no medium of communication between the Governor and the House. He said he held a written order to the secretary of state, or deputy secretary, to present the message. It contains a statement by the Governor, said he, that he (the Governor) had sent to the House a message vetoing the soldiers voting bill, and that he understood the House refused to receive it, and requests the secretary or deputy secretary to present it. The deputy secretary declares that he has not taken the oath of office this year (he was acting as clerk of the House) and cannot present it. It is well understood that the time in which the message can be presented has nearly expired. He was not aware, he said, that any particular channel of communication was prescribed, and he declared the speaker's course as revolutionary, and designed to thwart the constitutional power of the Governor—of a coördinate branch of the government.

Mr. Bingham called the attention of the House to the constitutional provisions relating to the veto power, and contended

that no channel was prescribed through which the Governor should return the bill, either by the Constitution or by the rules of the Legislature. The channel is left to his judgment and he, alone, is responsible for it. He may select such as he chooses, and it is the duty of the House to receive the message. He defied any man to controvert this position, and said if the House should override it, it would override the Constitution of the state and erect the standard of revolution. For members to reject it was to violate their oaths. Pause here, before it is too late, he implored. Remember that the country stands on the very borders of an abyss. It needs all our care and efforts to rescue it from the perdition into which we are fast sinking!

It seems that the secretary of state, Allen Tenny*, had refused to present the document without a written order from the governor, and that he had been "spirited" out of the way before such order could be secured. The object of the minority then was to hold the floor and prevent an adjournment, which the majority were planning to bring about, till the secretary could be found and the message be formally presented by him to the speaker. Mr. Sinclair again spoke at length and then Samuel B. Page of Warren got the floor and held it for a long time, replying good-naturedly to all sorts of questions, but refusing to yield to any one. He finally concluded and Mr. Bingham again got the floor, when, at about half past five o'clock, the secretary of state, who had at last been found, appeared in the hall with the Governor's message, which he was instructed to deliver, but which he got no opportunity to do, through the

*Allen Tenny, son of Rev. Erdix and Mary Latham (Kendrick) Tenny, was born in Lyme, N. H., March 29, 1833. He fitted for college at Kimball Union Academy, Meriden, and graduated from Middlebury in 1856. He taught for a time in Lyndon, Vt., and Concord, N. H. In 1859 he was made deputy secretary of state, and in 1861 was chosen secretary, serving till 1865, when he declined further service, and went to the Albany (N. Y.) law school, graduating in 1866. Pursuing his studies further, he was admitted to the bar of Connecticut in 1868 and engaged in practice in Norwich, that state, where he continued nearly thirty years. He was a member of the Connecticut House of Representatives in 1873 and of the State Senate in 1874, being president *pro tem* of that body. He was corporation counsel for the City of Norwich from 1874 till 1883, and a United States commissioner for several years. He retired from practice some years ago and removed to Providence, R. I., to look after business interests.

continuance of debate, and the speaker's apparent inclination to hinder rather than facilitate such delivery

At about 6 o'clock, Mr. Saunders of Nashua got in the long contemplated motion to adjourn. The yeas and nays being demanded on this motion the roll call proceeded under great difficulty. Men were on their feet in all parts of the hall shouting and gesticulating, opposing party leaders hurling defiance at each other with every indication of actual violence impending. The only way in which the vote could be taken was by the passing of members before the clerk as their names were called and the shouting of their response in his ears. The call was not concluded until 7 o'clock, when the result showed a majority in the affirmative and the House stood adjourned. The speaker had not received the veto message, but the secretary had finally dropped it on his table at about 6.45 o'clock.

At the opening of the House session, the following day, Mr. Clarke of Manchester, offered a resolution which was finally adopted, providing that a committee of seven be appointed by the speaker to inquire and report whether or not the soldiers voting bill had become a law without the approval of the governor, by constitutional limitation. This committee, as appointed, consisted of Messrs. Barton of Newport, Clarke of Manchester, Parker of Merrimack, Hackett of Portsmouth, Pitman of Bartlett, Wyatt of Dover and Page of Thornton.

Mr. Bingham then moved that the paper from His Excellency, the Governor, placed on the speaker's table the previous day, by Allen Tenny, be now read for the information of the House, but Mr. Adams of Manchester thereupon interjected a call for the general order. Mr. Bingham then moved the suspension of the rules, so that his motion might be in order at that time, but, a call of the roll being demanded, the motion was lost, 102 to 145. A bitter controversy ensued during which Mr. Bingham used plain and emphatic language in denouncing what he characterized as the revolutionary course pursued by the House and speaker in the afternoon previous.

In the afternoon the majority of the special committee reported, declaring that the act in question had become a law, as claimed by the majority leaders. Messrs. Pitman and Page pre-

sented a minority report, taking the opposite position, but the House, by practically a partisan majority, adopted the majority report. The question ultimately went to the Supreme Court, which had finally decided the act constitutional and that body also decided it to be law, the constitutional limit having been passed, in any event, in the estimation of the judges, after its legal delivery to the governor, and before it was received in the House.

While there was much excitement over the passage of this act, it may be noted that similar measures were enacted by the legislatures of most northern states, before the close of the war, and in most cases the same were held constitutional by the courts, though the Supreme Court of Michigan, with but one dissenting opinion, decided the act passed by the Legislature of that state, providing for the voting of the soldiers in the field, to be unconstitutional, Judge Cooley joining in the decision.

In 1865 Mr. Bingham and Dr. Charles M. Tuttle were chosen as the representatives from Littleton, but the latter failed to take his seat. The House organized by the choice of Austin F. Pike* of Franklin as speaker, who received 196 votes to 105 for Asa P. Cate of Northfield, the Democratic candidate. Samuel D. Lord of Manchester was made clerk and Charles B. Shackford of Conway, assistant. The members of the judiciary committee were: Wheeler of Dover, Upham of Concord, Bingham of Littleton, Smith of Wentworth, Small of Newmarket, Bean of Sandwich, Bowers of Newport, Little of Manchester, Conner of Exeter and Albee of Winchester. The special committee on

*Austin F. Pike, a native of the town of Hebron, born October 16, 1819, died at Franklin, October 8, 1886. He attended the academies at Plymouth and at Newbury, Vt., and studied law with Hon. George W. Nesmith, at Franklin, with whom he subsequently formed a partnership, which continued until the elevation of Mr. Nesmith to the bench. He was very successful in his profession and took high rank as an advocate. He represented Franklin in the Legislature in 1850 and 1852, served in the State Senate in 1857 and 1858, being president the latter year, and was again in the House in 1865 and 1866, serving both years as speaker. He was an earnest Republican and a delegate to the first National Convention of the party in 1856. He served in the Forty-third Congress from the old Second District in 1873 and 1874, his New Hampshire colleagues being William B. Small of Newmarket and Hosea W. Parker of Claremont, and was chosen United States senator in 1883, dying in the middle of his term.

national affairs, upon which Mr. Bingham also served, was somewhat different, but even stronger in its make-up. It included Blaisdell of Hanover, Upham of Concord, Sawyer of Nashua, Bingham of Littleton, Quincy of Rumney, Wheeler of Dover, Small of Newmarket, Stearns of Rindge, Stevens of Portsmouth and Hibbard of Laconia. It may be noted that, the work of rebuilding the state house being in progress at the time, the legislative session was held in the city and county building, the House being accommodated in the city hall, on the lower floor, and the Senate in the court room above.

This was largely a working session and the judiciary committee, as usual, carried the main burden, Mr. Bingham doing his full share of the work. It may be added that the committee, this year, ranked above the average in point of ability, while the judgment of no member carried greater weight, in questions of practical moment, than that of Mr. Bingham.

This session was devoid of partisan controversy, until near the close, when the question of the ratification of the Thirteenth Amendment to the Federal Constitution, submitted by Congress to the legislatures of the several states, came up for consideration. A majority report from the committee on national affairs, in the form of a joint resolution ratifying the amendment had been presented, on June 22, read once and ordered to a second reading. A minority report, signed by Mr. Bingham and Mr. Hibbard of Laconia, was subsequently presented, as follows:

STATE OF NEW HAMPSHIRE,
House of Representatives, June Session, 1865.

The undersigned, a minority of the committee on national affairs, to whom was referred the matter of ratifying the proposed amendment to the Constitution of the United States, dissenting from the report of the majority of the said committee, present the following considerations as among the reasons which compel their dissent: namely,

1. Because the extraordinary events of the last four years have left the southern portion of the Union in such an unsettled condition that any proper action there, at the present time, upon this or any other amendment to the Constitution, is utterly impossible; and because the other causes still continue to bias, agitate and inflame the public mind of every portion of the Union to such an extent that the fair, impartial and dispassionate consideration

which a free people ought always to give to changes in their fundamental laws, cannot now be had.

2. Because the proposed amendment is not an amendment authorized by the Constitution, but is revolutionary in its character.

3. Because, in our belief, the future welfare of the people of the United States can be secured only by maintaining and preserving inviolate the authority of the States over all matters of a local and domestic character, and inasmuch as the relation between master and servant is a matter of a nature purely local and domestic, the adoption of this amendment would obliterate the great line of demarcation between federal and state authority, lead to the absorption of every reserved right of the states, and the ultimate consolidation of all power in the hands of the national government.

HARRY BINGHAM,
E. A. HIBBARD,
Minority of the Committee on National Affairs.

On the afternoon of June 27, the subject came up in the House for debate. Mr. Upham* of Concord opened the discussion with a lengthy speech in favor of ratification; and was followed by Mr. Quincy† of Rumney (a Democrat who had broken away from his party upon this and most other questions

*Nathaniel Gookin Upham, born in Deerfield, January 8, 1801, died in Concord, December 11, 1869. He was a son of Hon. Nathaniel and Judith (Cogswell) Upham, and graduated from Dartmouth College in 1820 at the remarkably early age of nineteen years. He studied law with David Parker, Jr., and, after admission to the bar, located in practice at Bristol, but removed to Concord in 1829, where he continued. He soon gained distinction and when 32 years of age, in 1833, was appointed a justice of the Supreme Court, serving ten years, when he resigned to become superintendent of the Concord Railroad of which corporation he was afterward made president. He was a delegate in the Constitutional Convention of 1850, and a commissioner to adjudicate the claims of citizens of the United States and Great Britain in 1853, and again between citizens of the United States and New Grenada in 1862. Politically he was a Democrat till 1861, when he joined the Republican party.

†Samuel H. Quincy, a prominent merchant at Rumney, was a native of that town, a son of Hon. Josiah Quincy who was a distinguished lawyer, leading Democratic politician and the first president of the Boston, Concord and Montreal Railroad. He was educated at Brown University. He was postmaster at Rumney for a time and represented the town in the Legislature in 1864 and 1865. He subsequently removed to Lancaster, Mass., where he served many years on the school board and as a member of the board of registers. He died December 12, 1893.

growing out of the war), upon the same side. Mr. Sturoc* of Sunapee spoke earnestly against the amendment and in support of the minority report. The debate was not concluded that afternoon, but went over till the next day when Mr. Bowles† of Manchester and Mr. Small‡ of Newmarket spoke in support of the amendment, and at an evening session Mr. Bingham spoke for two hours in opposition, making the longest speech of the session, and was followed on the same side by Mr. Smith of Wentworth in a strong speech occupying an hour in the delivery.

It is unfortunate that a meagre newspaper abstract is all that is preserved of this, as of most of Mr. Bingham's speeches in the Legislature, while even that much cannot be had of most of his arguments before courts and juries. The following abstract, crudely covering some of the main points of his speech on this

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*William C. Sturoc was a native of Scotland, born November 4, 1822, at Arbroath in Forfarshire. He came to America in 1850, and made his home in Sunapee, being attracted by the romantic lake and mountain scenery of the region, so similar to that of his native land. Meeting with the late Hon. Edmund Burke, he was induced by him to fit himself for the legal profession, and pursued the study of law in Mr. Burke's office at Newport. He was admitted to the bar in 1855, and located in Sunapee, where he continued, combining legal practice with the pursuit of agriculture and the "Muses." He wrote many poems — some of more than ordinary merit. He earnestly espoused the principles of the Democratic party, and was a campaign speaker whose services were in much demand. He served efficiently as a representative from Sunapee in 1865, 1866, 1867 and 1868, participating frequently in the debates. He lived in retirement and study for many years previous to his death, May 31, 1903.

†Rev. Benjamin F. Bowles, a clergyman of the Universalist faith, was born in Portsmouth, March 4, 1824, son of Thomas and Abiah (Bradley) Bowles. He was educated in the literary and theological departments of Clinton Liberal Institute, New York, and ordained as pastor of the Second Universalist Church, at Salem, Mass., July 12, 1848. He held several pastorates, and was located in that at Manchester from 1860 to 1866, serving as chaplain of the House of Representatives in 1864, and as a member of that body in 1865. His last pastorate was at Abington, Mass., where he died, January 1, 1892.

‡William B. Small, born in Limington, Me., May 17, 1817, died at Newmarket, N. H., April 7, 1878. He was educated at Effingham Academy, and engaged in teaching at Exeter where he studied law with Bell & Tuck, and after admission to the bar located at Newmarket, where he succeeded to the practice of W. W. Stickney, who had removed to Exeter. He established a reputation as a careful and successful lawyer. He engaged in political life as a Republican, serving as a representative in the Legislature in 1865, as a state senator, and a member of Congress from 1873 to 1875.

occasion is from a daily newspaper report of the House proceedings:

Mr. Bingham, of Littleton, said the principles announced in the minority report went back even of the organization of this government and related to the government of the colonies, and that the principles announced yesterday by the gentleman from Concord were new, never announced by any party in this country until now. It seemed to him a very great piece of assurance for any man to come in here and characterize such old doctrines as new, and such new doctrines as old. He deemed it peculiarly appropriate, at the present time, and under present circumstances that such a speech as was made today by the gentleman from Manchester (Mr. Bowles) should be made. He believed that it was precisely the kind of talk that had led the public mind to ignore the principles of the fathers, and rush wildly into revolution. He (Mr. Bowles) had said it was our duty to carry out our conscientious convictions in our political action. That is, whatever any man conscientiously believed to be wrong, he must annihilate, if he can. This idea was at war with the fundamental principle of our institutions. Each man had his conscientious convictions, and under the Constitution, each man was entitled to enjoy those convictions, except only that he did not injure his neighbor. The gentleman's argument was precisely the argument on which all the religious persecutions of history had been based. The promoters of the Spanish Inquisition, and the authors of the Massacre of St. Bartholomew, believed that heresy was wicked and damnable, and of the devil, and they would kick it to the devil. He (Mr. Bowles) said the institution of slavery was immoral, and the orthodox said precisely the same thing of what he understood was the religious creed of the gentleman. While he thought slavery immoral, the people of other states thought it was a moral institution, even a divine institution. It was, then, a matter of difference, so far as conscience was concerned. The people of the South were not without argument; they referred to the Bible, and they said, "See this," and "See that"; and they had as much right to their opinions as the gentleman had to his.

The gentleman from Newmarket, in replying to his associates, went along very smoothly, for he had the law all on his side. But he found a hard spot to get over, when he came to justify the vote he proposed to give, and he had to assign precisely the same reasons that were given by the gentleman from Manchester and the gentleman from Concord. It had always been contended by everybody that slavery was a local matter, and had no existence in any state except by reason of having been established

there. When the gentleman from Newmarket said that slavery was a national matter, he contradicted the understanding that had been entertained by everybody ever since the formation of the government.

His (Mr. Bingham's) position was, that this contemplated amendment was revolutionary in its character, and could not be justified by any action of any political party, and found no support in the Constitution. In his opinion, this amendment stood in reference to the Constitution, precisely as the Southern doctrine of secession did. That doctrine was revolutionary, and so was this attempted amendment; neither of them could be justified, except on the principles that justified revolution.

He was aware that the feelings growing out of the late rebellion had given an impetus to the popular mind, which, by the influences of the war, and by such considerations as had been urged by the gentleman from Manchester, had been brought to the point where it was ready for revolution. It was for the House, as representatives of the people, to consider this matter deliberately and calmly. It was said that the agitation which was commenced over twenty-five or thirty years ago, of the slavery question, had at last culminated in the freedom of the negro, under the war power, and that the negroes were now all American citizens. This negro race had never manifested an intelligent appreciation of freedom, or any rational desire for it, and yet it seemed that there was nothing so beautiful or desirable to the popular mind as the freedom of the negro, and the people seemed ready to compass Heaven and earth to accomplish it, as if that was the thing to do away with all the wrongs in the world and bring about the millennium.

He ascribed this idea to the fact that, for the last ten or fifteen years, the people had listened, at least one day in the week, to just such language, from persons whose doctrines they believed they were bound to swallow, as the House had listened to today. To him the idea of negro freedom was a delusion and a snare. The people might dissolve the bonds between the master and the slave, but they could not change the nature of the negro. His "fleecy locks and black complexion" would still remain. His servile nature and degraded intellect would still remain. God made the negro, and it was not in the power of men, however unitedly or loudly they might call for it, to change the negro from what God made him. It was not for the people to criticise God, or interfere with the punishment he had decreed for certain classes or races. If He had said: "Cursed be Canaan; a servant of servant shall he be to his brethren," and if that meant the African race, it was not for men to interfere with the ordinances of God's providence, nor with the punish-

ments that He may have decreed to this race or that. He regarded this interference with the condition of the negro as particularly unfortunate for that race. He defied anyone to point out a race of negro people, that ever existed, that had so many material comforts as the negroes of the Southern states. He believed that proved that the condition of the negro there was the best condition for him. But if the voice of the people had decreed that these bonds should be broken, then they must be, however disastrous it might be to the negroes, to the masters, or to the nation itself. They had been producers, and if they become vagabonds, paupers and criminals, they would become a tax upon the nation, first in the loss of the fruits of their labor, and next, by the cost of their support in vagabondism. He believed that many of these people, in the destitution, sickness and suffering which would result from this change in their condition, would sigh, but sigh in vain, for the comforts of their old Kentucky or Virginia homes.

The people of the North had been praying and weeping over an ideal being. They were now to see the negro as he is — a being servile in nature, utterly improvident, incapable of self-denial, and incapable of being so instructed that he will be a "law unto himself." He believed that the people were in danger of committing suicide in their anxiety for the welfare of the negro, and of surrendering that civil liberty, the maintenance of which was so important, not only to the people of this country, but to the human race.

He objected to the amendment on the ground that, just emerging as we were from a cruel war, the time was not favorable for the consideration of such a question. Another reason was that the party now in power was not a Union party. Many of the men who controlled that party were men who had been opponents of the Union, and some of them had said, "Let the Union slide." Another reason for not acting on the amendment now was the condition of the South, which was without a government of any kind. Why not, he asked, wait until the South was so far settled that they could all come together and act on the amendment, in the spirit in which the fathers acted?

The next point presented by Mr. Bingham was that we had no constitutional power to make the amendment; that three quarters of the states had not the power, under the Constitution, to amend that instrument in this particular, against the dissent of any of the remaining one quarter. He maintained the doctrine that the power of amendment granted by the Constitution was limited to modifications and changes in regard to the powers that were granted to the general government by that instrument, and did not extend to taking from the states the powers which

by that instrument were reserved to them. He referred to the history of the country, to show that the opinion at the time of the formation of the Constitution was that the general government should be supreme in all matters delegated to it, leaving the states soveign in all matters which were reserved to them. The seventh article of the Bill of Rights of New Hampshire, declared the same doctrine In 1861, Congress resolved that the general government had no right to legislate on slavery, that the people who did not believe this doctrine were an insignificant minority. The first inaugural of President Lincoln was also cited as setting forth the same principle. But supposing this power to exist, the speaker maintained that it was not desirable to exercise it. If this barrier was once broken down, it would open the way for the destruction of all state rights. To show that this danger was not a mere chimera, he referred to the declaration of the Governor in his inaugural address, that the general government should provide suffrage for the negro, although the power to determine who should vote had always been reserved to the state. The Governor has also declared that they ought not to rest satisfied until free schools and free churches were established all over the country. Yet these were matters within the exclusive jurisdiction of the states.

These propositions indicated the tendency of the time. If this amendment was adopted, it would lead to a consolidation of power in the general government that would make it as omnipotent as the Parliament of Great Britain. Unless some check was put upon the tendency, that result would inevitably follow. It was very pleasant for Massachusetts now to have her views carried out, but would she be equally well pleased when the views of South Carolina or some other state were forced upon her? He predicted that Massachusetts in ten years, if this amendment was adopted, would be as clamorous for state rights as she was in 1812, when she refused to furnish her quota of troops in the war with Great Britain. Wise men would look ahead. He regarded the present crisis as the most important in which the country has been placed since the formation of the Constitution, if not the most important that had ever existed. Recent events had shown that our government was strong enough for any emergency, and he thought that every argument that was presented for a change in those principles of government which had been so successful in their operation should be carefully scrutinized, lest the liberties of the people should be destroyed.

It had been asserted that the object of the war was to abolish slavery, but he contended that the object of the war was to maintain the Constitution and preserve the Union and the

supremacy of the laws. (Applause.) He believed that, if we could have statesmanship in the cabinet equal to the valor of our soldiers in the field, the time was not far distant when all the states would again be united, and the old condition of harmony and prosperity restored.

The majority report was adopted by the House, and the ratification of the amendment voted at the forenoon session of June 29, by a vote of 216 to 97, the Republican members voting solidly for it, and most of the Democrats against it.

On June 30, the day of final adjournment, the committee on national affairs reported a series of resolutions. Messrs. Bingham and Hibbard failed to agree with the balance of the committee and presented the following

MINORITY REPORT:

The undersigned, a minority of the committee on national affairs, to whom was referred so much of the message of His Excellency, the Governor, as relates to national affairs, have considered the same, and ask leave to report the accompanying resolutions, and recommend their passage.

HARRY BINGHAM,
E. A. HIBBARD.

Resolved, That we hail with profound pleasure the peace which closes the bloody strife of the last four years, and warmly welcome to their homes the brave survivors of the war, with many tears for their less fortunate but equally brave comrades, who now sleep in death, and that we proffer our kindest regards, and pledge to them our steadfast friendship in the future.

Resolved, That the government of the United States is of a limited character, and is confined to the exercise of powers expressly granted by the Constitution, and such as may be proper for carrying the granted powers into full execution, and that powers not granted or necessarily implied, are reserved to the states respectively, and to the people.

Resolved, That the state governments should be held secure in their reserved rights, and the general government sustained in its constitutional powers, and that the Union should be revered and watched over as the palladium of our liberties.

Resolved, That the federal and state governments are parts of our system, alike necessary for the common prosperity, peace and security, and ought to be regarded alike with a cordial, habitual and immovable attachment. Respect for the authority of each, and acquiescence in the just constitutional measures of

each, are duties required by the plainest considerations of national, state and individual welfare.

Resolved, That upon the return of peace and submission to the laws there can be nothing to interfere with the supremacy of the civil authority, and military trials for civil offenses cease to have any warrant or justification.

Resolved, That those states which have been in rebellion and have now submitted to the Constitution and the laws, ought to be permitted to resume their original rights as states in the Union; that punishments ought to be inflicted and pardons granted, according as one or the other will best serve to pave the way for the full and perfect restoration of all the states to their original rights and position in the Union; that any interference by federal authority with matters and things by the Consitution subject exclusively to the control of the states, being illegal, is without any justification whatsoever.

Resolved, That we hope and trust that the present national executive is endowed with strength and wisdom equal to the magnitude and difficulty of the work now before him; that we have reason to believe, and do believe, that the principles set forth in the foregoing resolutions are the principles by which he proposes to be guided in the performance of that work, and so believing, we hereby pledge to him our earnest sympathy and steadfast support.

Mr. Bingham moved to substitute the minority for the majority report, but the motion was lost, 60 to 151, and the majority report was adopted.

Mr. McNeil* of Hillsborough moved to add the following to the majority report:

Resolved, That we cordially and earnestly endorse the declaration of the chief executive of this nation that "the states that have been in rebellion are still states, or, in other words, that the governments of those states were only in abeyance, and that when the rebellion was suppressed, and the laws and the Constitution revived, neither the president nor Congress has any

*Col. John McNeil, a son of Gen. Solomon and Nancy M. (Pierce) McNeil, was born in Hillsborough, November 6, 1822. He was a nephew of President Franklin Pierce, and served as an inspector in the Boston custom house during the administration of the latter, and that of President Buchanan. Resuming his residence in Hillsborough, he represented that town in the Legislature in 1864 and 1865. He later removed to Concord where he was a companion of the ex-president, but after his death, removed to Chelmsford, Mass. He was a cultivated gentleman, of refined manner and scholarly tastes. He died at Winchester, Mass., April 7, 1888.

authority to prescribe the qualification of electors of those states."

A great deal of excitement was precipitated by the presentation of this resolution and a sharp debate followed, remarks in opposition being made by Messrs. Wheeler, Stearns, Flint, Bean, Upham and Blaisdell, while it was earnestly supported by Messrs. Bingham, Smith, Cate and Page. It was rejected by a vote of 65 to 144.

At the close of the session on the following day, July 1, Mr. Bingham, as the leader of the minority, being among those who supported the customary resolution of thanks to the speaker, spoke briefly, as follows:

So far as my own judgment is concerned, I cheerfully agree to the resolution now before the House. It is certainly true that the discharge of the duties of the office of speaker of a legislative body is no light and trifling task. The responsibility resting upon the presiding officer for the proper discharge of his duties is great. In the first place, it is his duty as the presiding officer, so far as his official action is concerned, to know no party and no clique in the House. All he has to do is to enforce the will of the House, and the will of the House as expressed in its written rules, and as it may be expressed by the votes rendered in accordance with its written rules.

Any person who is able to put himself into that state of fairness and impartiality that he is able to discharge this duty agreeably to the requirements of the position is obliged to have a mind capable of appreciating what justice is and to have the rules before him, and observe them strictly.

Unless he do this, and if he permits himself to go wandering off with a desire to please this party or that party, this clique or that clique, he will most certainly fail to discharge the duties required of him.

It is with great pleasure that I feel authorized to say, so far as my judgment goes, that our speaker, during the present session, has been able to come up to the standard of what a presiding officer should be, as I consider that standard to exist.

Therefore, it is with the greatest pleasure that I announce my purpose to vote for the resolution.

After five successive years of service in the Legislature — 1865 being the last — Mr. Bingham was not again elected till 1868, and then only as an additional representative, two others having been chosen, upon the assumption that the town had

ratable polls enough to entitle it to three members of the House, under the constitutional provision as it then existed. Partisan feeling was still running high and the Republican leaders in the town threatened to contest his right to a seat should he attempt to take it. With an overwhelming Republican majority in the House, and the usual course of such a majority in mind, whenever a contest was made, Mr. Bingham deemed it inexpedient to engage in any controversy over the matter, especially as he then held the office of United States treasury agent, by appointment of President Johnson, and was also purposing to attend the Democratic National Convention, then about to be held, and at which he was subsequently selected as the New Hampshire member of the Democratic National Committee. He, therefore, failed to qualify as a member that year, or to make any attempt in that direction; but devoted himself to the service of his party in other directions, so far as the demands of his profession would permit.

It was not until 1871 that Mr. Bingham was again engaged in legislative service. In that year he commenced a period of continuous service in the House, covering eleven years, being elected by the people of Littleton at each successive election from 1871 to 1880, inclusive, at the latter for the biennial session opening in June, 1881.

In 1871 he had as his colleagues in the House, from Littleton, Col. Cyrus Eastman and Ellery D. Dunn. This was the first year, after their accession to power in 1855, that the Republicans failed to control the state government. There had been no choice of governor at the March election. Six Democratic and five Republican state senators had been chosen and there was a failure to elect in the first district, no candidate having a majority of the votes cast. Moreover, the senator-elect in the tenth district — Hon. Samuel P. Thrasher of Plainfield — had died after the election and before the meeting of the Legislature, so there were two senatorial vacancies to be filled by ballot in the legislative joint convention as well as a Governor to be chosen. Everything, therefore, depended upon the control of the House of Representatives, in which neither the Democrats nor Republicans had a straight majority, the balance of power being

held by a few men elected as "Labor Reformers," which party had a ticket in the field at the March election and cast 760 votes for governor. These "Labor Reformers" were, mostly, men who had broken away from the Republican party, for some reason or other, and who might naturally be expected to ally themselves more readily with the opposition than with their former associates. Conferences were held between representative Democrats and Labor Reformers and a plan of union arranged, by which, although the latter got the lion's share, considering their relative strength, Republican discomfiture was insured.

The Legislature convened on June 6, the representatives-elect being called to order by the clerk of the preceding House, Josiah H. Benton, Jr., and the first action taken being the election of Hon. George W. Nesmith of Franklin as temporary chairman, upon Mr. Bingham's motion. The House then proceeded to ballot for speaker, with the result that James O. Adams of Manchester, Republican candidate, received 162 votes, and William H. Gove* of Weare, Labor Reformer, who was the Democratic candidate, had 164, and was elected.

Immediately after the speaker-elect had taken the oath of office, assumed the chair and briefly addressed the House, Mr. Bingham, as the recognized leader on the Democratic side, offered the following resolution, moving its passage and calling for the yeas and nays on the question:

Resolved, That James R. Jackson of Littleton be elected clerk, and James H. Colbath of Barnstead assistant clerk for the ensuing year.

Mr. Fowler of Concord, who with Wadleigh of Milford

*William Hazelton Gove, born in Weare, July 10, 1817, died there March 1, 1876. He was educated in the common school, but himself engaged in teaching, and for a time studied law. He soon became interested in the anti-slavery cause, and became a public speaker in its advocacy, attaining celebrity for his forceful eloquence. He was a member of the first National Convention of the Free Soil party at Buffalo, N. Y., in 1848. He represented the town of Weare in the Legislature in 1851, 1852 and 1855, and acted with the Republican party from its organization. He was postmaster at Weare under Presidents Lincoln and Johnson, but became dissatisfied with the party and was active in the "Labor Reform" movement of 1871. He was a delegate to the National Liberal Republican Convention in 1872, and a Democratic state senator in 1873 and 1874.

divided the Republican leadership, moved to amend by striking out all after the word "Resolved," and inserting "That the House do now proceed by ballot to the choice of a clerk."

With such a narrow margin of majority, and that made up by such a combination, the Democratic leaders, with Mr. Bingham at their head, did not propose to take the risk of a secret vote. They proposed to fight the matter out in the open, and elect the clerk and assistant clerk in the customary way — by resolution; but the Republicans resorted to a protracted course of "filli-bustering" to delay action and prevent a vote, and it was not until the afternoon of the following day that the House, after every expedient that the minority leaders could devise had been resorted to for obstruction and delay, was finally organized and ready for work. Even then the defeated party was unwilling to permit the work of the session to proceed without obstruction, and another season of fillibustering, characterized by all sorts of dilatory motions and roll calls, designed simply for the consumption of time, was indulged in to delay the meeting of the two branches of the Legislature in joint convention for filling the senatorial vacancies and canvassing the vote for governor, so that it was not until Saturday, or the fourth day of the session, that such convention was held; nor was it until the senatorial vacancies were filled that the Senate itself effected a permanent organization, the ten surviving senators elected by the people being evenly divided between the two leading parties. These vacanacies were filled by the choice of Capt. Daniel Marcy of Portsmouth, the Democratic candidate for the First District, and Alvah Smith of Lempster, who had received four votes at the polls, as the candidate of the Labor Reformers, in the Tenth District, and was supported by the Democrats in the Legislature in preference to Albina Hall of Grantham, the Republican nominee, especially in view of the fact that he had been interviewed in the Democratic interest, and had given it to be understood, at least, that in case of his election by Democratic votes he would be found acting with the Democratic party in the Legislature.

James A. Weston, of Manchester, who had received 34,799 votes at the polls, was elected governor by the convention, by a

vote of 167 to 159 for James Pike of South Newmarket, who had 33,892 votes at the polls.

Beyond the control of the organization of the two branches of the Legislature, and the election of governor, however, the Democrats were unable to accomplish anything during the session. The general removal of state officials and reorganization of the judiciary, that had been planned, was not carried out, from the fact that at the opening of the second week of the session, his former associates in the Republican party got control of Senator Smith, and beyond voting for the removal of one or two county officials, he persistently refused to coöperate with the men by whom he had been elected in carrying out their proposed plans of "reform."

It is proper to say that it was against Mr. Bingham's judgment that any arrangement was made or attempted with Mr. Smith, or that he was chosen as senator at all, and it was only at the earnest solicitation of party associates that he refrained from active opposition, in the convention, to an election of senator to fill the Tenth District vacancy at the time when it was proceeded with. It was his view that there was sufficient ground for doubt, as to the eligibility of Mr. Smith under the Constitution to warrant formal inquiry at least, and that, having filled the First District vacancy and secured an actual and positive majority, the safest and most politic course for the Democrats to pursue was to go ahead with the majority assured, without taking any chances with an uncertain quantity, such as the election of Mr. Smith would introduce into the situation, notwithstanding any promises, express or implied, which he might have made in the course of the negotiations which had been carried on with him, or which, at all events, were understood to have been made. The outcome proved Mr. Bingham's judgment to have been sound, and his view as to the proper course to pursue in order to insure partisan advantage for the Democracy to have been correct. The control over Senator Smith, eventually secured by the Republican leaders, left the Senate again evenly balanced on partisan questions, and nothing of any importance in any direction was done during the session.

Mr. Bingham was chairman of the judiciary committee of the

House, at this session, as a matter of course, his associates being Messrs. Chase of Northfield, Nesmith of Franklin, Fowler of Concord, Burrows of Plymouth, Page of Concord, Wadleigh of Milford, Hackett (William H.) of Portsmouth, Cogswell of Gilmanton and Blodgett of Franklin. Mr. Bingham was also named as chairman of the committee on national affairs, which was first made one of the regular standing committees of the House in 1869, which was the last year in which the veteran legislator, William H. Y. Hackett* of Portsmouth, was returned to the House, and he was assigned to its chairmanship, to be followed in such position in 1870 by the venerable Gen. James Wilson† of Keene, who was also a member of the House, for the last time, in 1871, and held membership upon this committee.

In the session of 1872, when his colleagues from Littleton were the same as in the previous year, Mr. Bingham was again assigned to service on the committees on the judiciary and national affairs, but the Republicans having regained power, elected a majority of the members and organized both branches of the Legislature, the chairmanships were, of course, bestowed

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*William Henry Young Hackett, a native of Gilmanton, born September 24, 1800, died at Portsmouth, where he had practiced law for more than half a century, August 9, 1878. He was educated at Gilmanton Academy and studied for his profession with the famous Ichabod Bartlett. He attained a high standing in his profession and was active and prominent in public life, serving in the House of Representatives in 1851, 1852 and 1853, in 1857 and 1860; in the Senate in 1861 and 1862, being president the latter year and in the House again from 1867 to 1869 inclusive. His son, the late William H. Hackett, long-time clerk of the United State courts in this state, also served many years in the House, cotemporaneously with Mr. Bingham. Hon. Wallace Hackett of the Legislature of 1909 is a grandson.

†Gen. James Wilson, a son of James Wilson, a noted lawyer of Peterborough, was born in that town, March 17, 1797. He removed to Keene with his father, in youth, and was there educated, studied law and engaged in practice, gaining high standing as an advocate, and also as a Whig campaign speaker. He was widely known as "Long Jim Wilson" and was a prominent figure in the famous "Hard Cider" campaign of 1840. He served many years in the Legislature and was speaker of the House in 1828. In 1847 he was elected to Congress and reëlected in 1849, but resigned the following year and went to California where he remained many years, but ultimately returned to Keene, and was there elected to the Legislature again in 1870, and reëlected in 1871. He was prominent in the state militia in early life, and attained the rank of major general.

upon members of that party. Asa Fowler* of Concord was the speaker of the House, receiving 208 votes to 138 for Thomas Cogswell, the Democratic candidate. Josiah H. Benton, Jr., was clerk and Samuel C. Clark of Gilford, assistant clerk. Bainbridge Wadleigh† of Milford was named as chairman of the judiciary committee, followed by Marston of Exeter and Flint of Concord, Mr. Bingham as the leading Democrat being given fourth place. The other members, in order, were Messrs. Weed of Sandwich, Burrows of Plymouth, Cogswell of Gilmanton, Farrar of Keene, Sulloway of Manchester, Albin of Concord, Smith of Newmarket and Blake of Fitzwilliam.

This session was a memorable one in no sense of the word. No legislation of special importance was enacted and no question came up involving any serious debate in which Mr. Bingham participated. As the Democratic leader he spoke, briefly, in two or three election contests and was heard in vigorous and effective protest, when, toward the close of the session, the majority leaders set out to smother all discussion to further final adjourn-

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*Asa Fowler, born in Pembroke, February 23, 1811, died at San Rafael, Cal., April 26, 1885. He was educated at Pembroke Academy and Dartmouth College, graduating from the latter in 1833. He studied law with James Sullivan at Pembroke and Gen. Charles H. Peaslee at Concord, and was admitted to the bar in 1837, commencing practice in Concord, where he soon became a partner with Gen. Franklin Pierce, with whom he continued several years, attending to the office work and preparation of cases, while General Pierce was conspicuous in the court room. Later he was for a short time senior partner with John Y. Mugridge, and also with William E. Chandler. He was clerk of the State Senate from 1835 to 1841, and a representative in the Legislature in 1845, 1847 and 1848, and again in 1871 and 1872, being speaker the latter year. He was an associate jusitice of the Supreme Court from 1855 to 1861; solicitor of Merrimack County from 1861 till 1865, and was appointed a member of the commission to revise the laws of the state in the latter year.

†Bainbridge Wadleigh, born in Bradford, N. H., January 4, 1831, died at Boston, Mass., January 24, 1891. He was educated at Kimball Union Academy, Meriden, and studied law with Mason W. Tappan at Bradford, commencing practice in Milford before he was twenty-one years old. He early took an active interest in politics, as a Republican, and was chosen to the Legislature from Milford in 1856, again in 1859 and 1860, also from 1869 to 1872, inclusive. In the latter year his prominence as a party leader in the House made him a formidable candidate for United States senator and he was elected to that office, but failed of reëlection and upon the completion of his term he established his law office in Boston, where he had gained a most lucrative practice at the time of his decease.

ment at a certain fixed date. It may be noted that, at this session, Mr. Bingham attempted to secure an amendment to a bill which had been introduced increasing the salaries of the justices of the Supreme Court, so as to provide a salary for the attorney general equal to that of an associate justice.

In 1873, Charles A. Sinclair, a son of Hon. John G. Sinclair, and J. C. Goodenough were the associate members of the House with Mr. Bingham, elected from Littleton. The House organized for the session by the choice of James W. Emery of Portsmouth as speaker, Samuel C. Clark of Gilford, clerk, and Charles C. Danforth of Concord, assistant clerk. Cyrus A. Sulloway of Manchester, now and for the last fifteen years representative in Congress from the First District of New Hampshire, was chairman of the judiciary committee, ranking Gen. Gilman Marston of Exeter, who held second place, with Mr. Bingham third, and other members, in order, as follows: Weed of Sandwich, Burrows of Plymouth, Blake of Fitzwilliam, Sanborn of Franklin, Smith of Newmarket, Healey of Keene, Jewell of Laconia, Otterson of Nashua and Whitehouse of Rochester.

The only important measure of a partisan nature coming before the Legislature at this session was an act introduced by Mr. Bell of Exeter, subsequently governor of the state, providing for a "gerrymander" of the councillor and congressional districts of the state, which finally passed, though not without the earnest antagonism of the Democratic members, who were outnumbered in the House by more than fifty majority, the vote on the election of speaker standing 202 for Mr. Emery and 147 for Joseph Burrows, the Democratic candidate. Mr. Bingham participated prominently in the debate when the gerrymander bill was under consideration, denouncing its unfairness and endeavoring, in vain, to secure several important amendments.

In the course of a debate upon a measure changing the hour of closing the polls in one of the wards of the City of Portsmouth, Mr. Bingham took issue sharply with certain remarks that had been made by Mr. Gallinger of Concord, present United States senator, then serving his second term in the House, and Mr. Gould of Portsmouth. The former had contended that the federal administration had a right to see that the government

employes give their votes in support of its principles and policy, or those of the dominant party, while the latter declared that an employer had a right to insist that his employes vote as he does. Mr. Bingham denounced these contentions as unsound and antagonistic to republican principles, and that their enforcement in practice would put an end to republican government. It would make the employer master and his employes merely so many cattle. As for himself he was born with faith in republican institutions, and would do his best to sustain them until his latest breath. As for the proposition that the administration had a right to demand that the federal employes vote to sustain it, he denied it most emphatically, and declared, moreover, that it did injustice to the Republican party, according to its recent professions of devotion to the principles of civil service reform.

Another measure upon which Mr. Bingham was heard, and with due effect in this case, was a resolution calling for the holding of a constitutional convention. A recommendation in favor of the same had been embodied in the governor's message, but a special committee, to which the matter had been referred, had reported unfavorably, and the report adopted by the House. Subsequently Mr. Albin of Concord had moved a reconsideration of the vote adopting the committee's report, and had carried the same by a small majority, but upon bringing the resolution in favor of a convention forward a debate ensued in which Mr. Bingham spoke earnestly in opposition, and was followed by Mr. Emery of Portsmouth in the same line, and the result was that it was defeated by a strong vote.

The year 1874 witnessed another political overturn in New Hampshire, in that it saw the complete restoration of the Democratic party to power in the state, though the election was again so close that there was no choice of governor by the people, James A. Weston, again the Democratic candidate, receiving 35,608 votes to 34,143 for Luther McCutchins of New London, Republican nominee, while John Blackmer, Prohibitionist, got 2,097, and there were forty-five scattering votes. Only two of the five councillor districts made a choice at the polls and but not secure control of the Senate, seven Democratic and five Republicans being chosen; but the Democratic margin in the

House, though not heavy, was a safe one, sufficiently large, indeed, to render impracticable any scheme of the opposition to "doctor" the membership roll through connivance with the clerk, even were it seriously considered in any quarter.

Mr. Bingham was again at the front, at the head of the Littleton delegation, which included, this year, J. C. Goodenough and Hon. John G. Sinclair, at that time a resident of the town. The House organized promptly by the election of Hon. Albert R. Hatch* of Portsmouth as speaker, he receiving 176 votes to 163 for James W. Emery. Charles H. Smith of Newmarket was chosen clerk and John B. Mills of Manchester, assistant clerk. Mr. Bingham was made chairman of the judiciary committee, his associates, in the order of their assignment, being: Blodgett of Franklin, Emery of Portsmouth, Burrows of Plymouth, Briggs of Manchester, Jewell of Laconia, Hall of Dover, Sanborn of Franklin, Woods of Bath, Paul of Unity, Healey of Manchester and Foss of Hillsborough.

The four senate vacancies (as well as the three councillor) having been filled, in joint convention by the election of the Democratic candidates, that party was in complete control, and prepared to devote the session, in the main, to a complete overturn and reorganization of the state government in its own interest. A new arrangement of the councillor and senatorial districts was effected, city ward lines were changed wherever it could be done to the apparent advantage of the party and the judiciary system was reorganized, the existing "Supreme Judicial Court" being abolished and a dual system, including a Superior Court of Judicature, and a Circuit, or trial, Court,

*Albert R. Hatch, born in Greenland, October 10, 1817, died at Portsmouth, March 5, 1882. He graduated from Bowdoin College, Brunswick, Me., in 1837, studied law with Ichabod Bartlett at Portsmouth, was admitted to the bar in 1841, and established himself in practice in Portsmouth, where he continued through life, gaining a successful practice and a high reputation both as a lawyer and advocate. He was active in politics as a Democrat and was chosen a representative in the Legislature in 1847 and 1848. In the latter year he was appointed solicitor for Rockingham County and clerk of the United States District Court, holding the former position till the political overturn in 1855, and the latter for twenty-five years. In 1873 he was again chosen a representative and reëlected the three succeeding years, serving as speaker in 1874. He was prominent in Free Masonry and in the affairs of the Protestant Episcopal Church.

established in place thereof. The Republican minority, of course, protested, and resisted to the extent of its ability, but was powerless to interpose any substantial obstacle, and the work was carried through even to the removal of nearly every officer in the state who could be reached through legislative address, so that the Governor was kept more than busy during the session, and for some time afterwards, in selecting men to fill the places of the deposed.

In carrying through the reorganization program, which included the framing and enactment of the measure creating the new judiciary system, Mr. Bingham was the leading spirit and directing mind, and, although the party majority behind him was sufficient for all practical purposes, with due care and discretion in management, it was not sufficiently large to permit of any carelessness or indiscretion, and a cool head and steady hand were requisite to the successful accomplishment of the purpose in view; nor were these at any time found lacking.

It was during this session of 1874 that the bill authorizing the union of the Boston and Lowell and Nashua and Lowell railroads was introduced and eventually enacted, its passage through the House being characterized by one of the most earnest and bitter contests that had ever been witnessed in the Legislature up to that time. Introduced early in the session it was kept in committee till well along toward the close, being ordered to a third reading after a sharp debate, July 1, and defeated the following day by a vote of 141 to 146. Mr. Sanborn of Franklin, one of its most active supporters, gave notice of a motion to reconsider, and, on July 7, introduced such motion, which was finally passed by a vote of 175 to 137. A season of warm and bitter debate, dilatory motions and general fillibustering followed, and adjournment for the day was finally taken without action upon the bill, upon motion of Mr. Bingham. The matter was reached again on the morning of July 9, and was finally made a special order for the afternoon of that day, when it was ultimately passed by a vote of 168 to 149, promptly going through the Senate and becoming a law. Charges of corruption and undue influence had been made, and an investigating com-

mittee appointed, but nothing of importance was brought to light, whatever the real facts in the case may have been.

Mr. Bingham was active and earnest in his antagonism to this measure, and might properly have been designated the leading spirit of the opposition. The contest, however, was not made along partisan lines. John G. Sinclair, who had long been conspicuous in Democratic leadership, in and out of the Legislature, was the most active and prominent champion of the measure, being ably supported by E. B. S. Sanborn of Franklin, then a Republican, and James W. Emery of Portsmouth, while James F. Briggs of Manchester and Joshua G. Hall of Dover, also leading Republicans, were arrayed with Mr. Bingham against it. There were decidedly sharp passages at arms, figuratively speaking, between Mr. Bingham and Mr. Sinclair at times, the latter even going so far on one occasion as to accuse Mr. Bingham of having told Col. John H. George, who, as the attorney of the Boston and Lowell railroad, was a prominent sponsor of the measure, that he would not oppose it. This Mr. Bingham denied in the most emphatic terms, declaring that he had never seen the bill until it was reported, and had never contemplated supporting or assenting to any such scheme of consolidation as the measure involved—a scheme which was manifestly a stepping-stone toward the upbuilding of a gigantic railroad monopoly. In view of subsequent actual results the accuracy of Mr. Bingham's diagnosis is scarcely to be questioned, whatever may be said as to the wisdom of his position, which depends entirely upon the view point from which it is regarded, and which it is not pertinent to discuss in this connection.

In 1875 the Republicans regained control of the House by a majority substantially the same as the Democrats had in the year previous, and by virtue thereof were enabled, finally, to elect their candidate for governor, Person C. Cheney of Manchester, who had failed of election by popular vote; but they did not secure control of the Senate, seven Democratic and five Republican senators having been found elected by the Governor and Council, in their canvass of the returns, and summoned to meet for organization, though it had been, for some time after election, the popular understanding that no choice had been

made in the Second and Fourth Senatorial Districts. It was discovered, however, some weeks before the time for the assembling of the Legislature, that the Republican candidate in the Second District had been voted for as "Natt" Head, whereas his lawful name, and the name by which he himself voted at that election, as it stood upon the check list, in his town of Hooksett, was "Nathaniel" Head; while in the Fourth District, where forty-five votes were cast for the Prohibition ticket the nominee of that party, Arthur Deering of Pittsfield, had not been a resident of the state for seven years preceding the election, and was therefore ineligible, as were, also, some of the men who received scattering votes. The Governor and Council, in canvassing the returns, took cognizance of the facts presented, and, in accordance with the express language of the statute declaring that all ballots not bearing the full Christian and surname of the candidate shall be regarded as blanks and "not counted," threw out the returns of votes for "Natt" Head in the Second District, as well as those for Arthur Deering in the Fourth, which left James Priest, the Democratic candidate, elected in the former, and John Proctor, also the Democratic candidate, in the latter, and the Governor issued his summons to them to assemble with the other senators-elect in the Senate chamber on the day set for the opening of the Legislature, which they did and the Senate was duly organized by the seven Democratic senators constituting a majority of the body, the five Republican senators-elect refusing to participate, flocking by themselves, and setting up a temporary "rump" organization.

The House of Representatives, to which Mr. Bingham had been returned again from Littleton, along with his brother, George A. Bingham and Otis G. Hale, organized by the election of Charles P. Sanborn* of Concord as speaker, Samuel C. Clark

*Charles P. Sanborn, born in Concord, September 13, 1834, died in that city, June 3, 1889. Mr. Sanborn was a student of Yale College for three years, but did not graduate. He subsequently taught school for a time, and then studied law with the late Judge Henry A. Bellows. Upon admission to the bar he became junior partner in the law firm of George, Foster & Sanborn, his associates being the late Col. John H. George and William L. Foster, subsequently associate justice of the Supreme Court, which firm commanded a large and lucrative practice. He served in the Legislature in 1862 and 1863, and again in 1875 and

as clerk and Charles C. Danforth, assistant clerk, the vote for speaker standing 190 for Mr. Sanborn to 179 for Albert R. Hatch, Democrat.

Immediately after the organization was effected Mr. Barton of Newport introduced a resolution directing the speaker to obtain the opinion of the Superior Court as to whether or not the Governor had constitutional authority to issue a summons to either James Priest or John Proctor to appear as a senator-elect upon the convening of the Legislature, immediately after the introduction of which the House adjourned till afternoon. Upon reassembling the matter was at once taken up, when Mr. Bingham moved the reference of the resolution to a select committee of six to be appointed by the speaker.

Mr. Hatch of Portsmouth addressed the House in opposition to the resolution, on the ground that the matter was one with which the House had nothing to do and that the adoption of such resolution would be disrespectful to the Senate. Mr. Barton followed in defence of his resolution, and was in turn followed by Mr. Bingham who deprecated hasty action in a matter of this importance. He thought it might be well to have the opinion of the court, but it should be sought in the proper manner. It was for the Senate to ask the opinion, if it was to be secured, as it doubtless would, and he had no doubt as to what the answer would be. If, however, the House is to ask the court's opinion it should be asked upon a proper presentation of the facts in the case, which the resolution before the House failed to embody.

After a protracted debate, accompanied by no little "fillibustering," Mr. Bingham's motion to refer to a special committee in order that a proper resolution could be framed, was defeated, 178 to 189, and at the close of the forenoon session on the second day Mr. Barton's resolution was adopted, all opportunity for amendment being refused.

It was not until Wednesday of the second week — June 9 — that the House concluded to recognize the Senate and notify

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1876, the last two years in the speaker's chair. He was city solicitor for Concord from 1871 to 1880, for several years a member of the board of education and clerk of the Concord and Claremont Railroad.

that body that it was ready to meet it in joint convention to proceed with the elections in accordance with the Constitution, the opinion of the Superior Court having been received meanwhile, in both branches, substantially to the effect that it was not within the province of that tribunal to pass upon a completed act of the executive department, a coördinate branch of the government, done in the discharge of its constitutional duties, or to review the action of the Senate in exercising its right under the Constitution to make final determination of the election and qualifications of its own members; and the "seceding" senators having concluded to return to their seats and perform the duty for which they were chosen.

The canvass of the vote for Governor showed 39,292 votes for Person C. Cheney of Manchester, Republican; 39,121 for Hiram R. Roberts of Rollinsford, Democrat, 713 for Nathaniel White of Concord, Prohibitionist, and 19 scattering. There being no choice by the popular vote, the convention proceeded to ballot, casting 186 votes for Roberts and 193 for Cheney, who was elected, though not commanding the full Republican strength.

The judiciary committee of the House, this year, was made up with Mr. Barton of Newport as chairman, and Messrs. Mugridge of Concord, Hatch of Portsmouth, Harry Bingham of Littleton, Leavitt of Exeter, Hazelton of Pembroke, Hiland of Manchester, Dinsmore of Laconia, Otterson of Nashua, Huntley of Alstead, Hayes of Milton and Topliff of Freedom.

With the Senate constituted as it was there was no opportunity for the success of any pronounced partisan legislation, and none, therefore, was seriously attempted; nor was there any controversy over legislation of any kind, though the ousting of a few Democratic members of the House gave opportunity for occasional exhibition of partisan rancor.

The only extended debate occurring in the House after the first days of the session was one opening on the 22d of June, when Orren C. Moore* of Nashua, who had been forging to

*Orren C. Moore, born in New Hampton, August 10, 1839, died at Nashua, May 14, 1893. He removed with his parents to Manchester in early childhood, where he attended the public schools and learned the

the front as a Republican leader, called up a series of resolutions which he had introduced a few days previous and which had been made a special order for that day. These resolutions related to the controversy over the organization of the Senate, were unquestionably designed for the manufacture of party capital in the Republican interest, and were so understood by both parties in the House and out. They condemned, in strong terms, the action of the Governor and Council in rejecting the votes returned for Head and Deering, as "unconstitutional, without precedent in the history of the state, and contrary to the overwhelming weight of legislative and judicial authority in this country." They also condemned the Senate for "perpetuating the arbitrary and unconstitutional action of the Governor and Council" and voiced "a solemn protest against the arbitrary and unconstitutional precedent established."

Mr. Moore delivered a lengthy and elaborate speech on the afternoon of June 22, in support of his resolutions and the same went over till the following day when Mr. Bingham spoke at equal length and with characteristic force against them. Only the merest newspaper outline of this speech is preserved, vague and imperfect in language and detail; but it is safe to say, judging from the points preserved and from the reported tributes of both ally and opponent following in the discussion, that it was a powerful and masterly effort. He characterized the resolutions of Mr. Moore as entirely without precedent in the state, and, with a solitary exception, in the entire country; en-

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printer's trade, which he followed for a time in youth in the office of his brother, Frederick A. Moore, at La Crosse, Wisconsin, subsequently returning to Manchester, where he was engaged several years as foreman in the *American* office. In 1864 he went to Nashua as editor of the *Telegraph* of which paper he became a joint proprietor in 1867, continuing the editorial management through life. While in Manchester Mr. Moore was a representative in the Legislature from Ward Four, in 1863 and 1864, when Mr. Bingham was also a member. He also served in the House from Nashua in 1873, 1874, 1875, 1876 and 1878, and in the Senate in 1879 and 1880. He served three years as chairman of the board of railroad commissioners by the appointment of Gov. Samuel W. Hale, and two years in Congress from the Second New Hampshire District, from 1889 to 1891, but was defeated for reëlection by Warren F. Daniell of Franklin. He was chairman of the Republican state committee in 1873, and a delegate to the Republican National Convention in 1876. Mr. Moore had no superior in the state as a political writer, and few equals as a speaker among his contemporaries.

tirely without warrant and in absolute violation of parliamentary law. He said they contained but a partial statement of the facts, some being omitted, some unstated and others distorted. No good result could come of their adoption and harm alone could grow out of them. Their introduction contemplated an unwarrantable interference by the House with the Executive department of the government. If the Governor was guilty of mis-doing he should be proceeded against in the constitutional manner by the process of impeachment. The only precedent for the proposed action was that afforded in the case of the heroic President Andrew Jackson, who had similar resolutions passed against him by the United States Senate, which were afterward "expunged" by order of that body. What, he asked, would be thought if the Senate should undertake to question and investigate the right of members to seats in the House? They have as much right to do so as the house has to interfere with the composition of the Senate. There were thirty or forty members, he asserted, having no right to seats on this floor — four at least from the County of Grafton, and various others whom he particularized, including the gentleman from Nashua, himself, the chairman of the committee on elections, who had better investigate his own affairs before meddling with those of the Senate. The passage of these resolutions by a partisan House, he said, could only result in bitterness and recrimination. He then went exhaustively over the entire history of the case, stating the law and the facts, reviewing the course of the governor and council, and the reasons governing their action, showing, moreover, that they had had the advice, in support of such action, of two of the most eminent ex-judges in the state— Sawyer and Fowler, both Republicans, and the latter recently himself the speaker of the House, each having given a written opinion justifying the course finally pursued.

He characterized the bitter tirades in the Republican newspaper press, against the executive and the court as grossly outrageous and improper, intended only for partisan effect, as were the resolutions under consideration, and expressed the belief that the wicked onslaught against an honest Governor and an upright court, then being indulged in, would not be

sustained by the great mass of the Republican party, though it must be conceded, in view of the next year's election outcome, that he too generously judged the rank and file of his political opponents.* He then reviewed some of the legal arguments adduced by the mover of the resolutions in their support, showing how citations had been miscontrued and misapplied, and in some instances actually sustained the other side, and declared that the opposition could well rest their cause on the cases cited. He insisted that the Governor's course was lawful and just, that it was properly sustained by the court, and that every person, having fair legal understanding, knew very well that the matter had been legally and constitutionally determined; that peace ought to prevail thenceforward in the Legislature, and the legitimate work of the session be duly and properly performed for the good of the people and the welfare of the state. If wrong had been done and its condemnation was necessary, he submitted that the five

*There is no doubt that the clamor which was set up by Republican politicians, reiterated constantly in the columns of the party press, and intensified by speakers on the stump in the next campaign, over the action of the Governor and Council in rejecting the returns of votes for Head and Deering and in issuing summonses to Priest and Proctor; over the course of the Senate in seating the latter, and the refusal of the Court to interfere in the premises had much to do with promoting the decisive Republican victory in the state in the following year. The changes were constantly rung on the "Senate Steal," as it was termed, and thousands of fair minded people, who gave the matter no real thought, were led to believe that a great popular outrage had been perpetrated through the instigation of the Democratic leaders, for the purpose of depriving the Republicans of the legitimate fruits of victory at the polls. And yet there is no more real doubt that the course pursued by the executive in the matter was strictly in accordance with the law, and that so far as any defiance of the popular will was concerned there was no real ground upon which the charge could be based, since more ballots were cast for the candidates that were eventually seated than for any other in their respective districts, and had the plurality rule obtained, as in most states, both would have been declared elected without question. As for the course pursued by the court no other could have been taken except by usurpation of authority not conferred by the Constitution, and the absolute soundness of its position was practically endorsed and confirmed by the action of the court in the legislative controversy of 1891, when the names of the so-called "if entitled" representatives-elect were placed upon the roll of the House by the clerk, and the same were confirmed in their seats by the House itself through their own coöperation, illegally, as was complained by the Democrats, who appealed to the court for redress and were promptly refused the same upon the plain ground of "no jurisdiction."

Republican senators had violated the Constitution when they "seceded," and the Republican House had done the same when it refused to go into convention to elect state officers on the first Wednesday in June. But the Democratic members had indulged in no abuse or useless criticism, and were ready at all times to go on with the proper and legitimate work of the session.

In conclusion, Mr. Bingham offered amendments practically reversing the character of the resolutions, commending the course of the Governor and Council and declaring the action of the Senate in its final disposition of the matter to be a legitimate and proper exercise of its own constitutional powers. He moved the adoption of his amendments, but they were, as a matter of course, rejected after farther discussion by a strictly partisan vote, and the Moore resolutions ultimately adopted in the same manner.

In 1876, Charles P. Sanborn was again speaker of the House, reëlected by a good working Republican majority of 204 votes to 168 for Frank Hiland of Manchester, the Democratic candidate. Charles C. Danforth was reëlected clerk and Alpheus W. Baker, assistant clerk. Mr. Bingham came back from Littleton, as usual, and his brother, George A., and Mr. George Carter were his associates. The Republicans were in "full swing" in both branches of the Legislature this year, and had reëlected Governor Cheney by a good majority at the polls. A complete political overturn was promised and expected, and the triumphant majority lost no time in getting down to work; nor did the Democrats as a rule, resort to factious opposition. Some unreasonable procedures were resisted sufficiently to show that the minority were not lacking in the spirit of proper resentment for palpable wrong, as was illustrated in their determined opposition to the high-handed course of the majority in connection with the celebrated Antrim election case, where David H. Goodell contested the right of Nathan C. Jameson to a seat in the House and was finally awarded the seat himself, the majority actually refusing even to allow the majority and minority reports of the committee on elections to be printed for the information of the House. In this contest Orren C.

Moore, chairman of the committee on elections, and the real Republican floor leader throughout the session, in all partisan matters, marshalled the forces of the majority, and Mr. Bingham led the minority members in such opposition as was made in this and in other cases where resistance to what they regarded as palpable wrong seemed to be properly called for, even though it was fully apparent that all resistance would prove futile.

The time of this session was mainly occupied in carrying out the Republican programme, which involved the undoing of all that the Democrats had done two years before, and going even farther in the work of partisan intrenchment. All the Democratic officeholders in reach from one end of the state to the other were turned out by address and even one or two of the Republican "spared monuments" were proceeded against in the same way, because it was held that any man sufficiently acceptable to the Democrats to be allowed by them to remain in office, should be regarded as a suspicious character and disposed of accordingly. The councillor and senatorial districts were rearranged, the cities "gerrymandered" anew; the new judiciary system wiped out and the one previously in vogue restored, and everything that could be thought of done to promote the advantage of the party in power. The minority, as has been said, engaged in no factious opposition, and Mr. Bingham was not often heard in discussion. When impelled by a sense of duty, however, he did not hesitate to advocate what he believed to be right, as, for instance, when the act reorganizing the judiciary was under consideration he urged the provision of adequate salaries for the judges, and earnestly opposed the motion of Mr. Barton of Newport, who was again chairman of the judiciary committee of the House, of which Mr. Bingham was also a member as usual, along with Marston of Exeter, Stevens of Nashua and others, reducing the salaries of the judges, as reported, which motion finally prevailed, notwithstanding his emphatic protest. So, too, when the joint resolution accepting the invitation of Congress to the state to provide two statues of representative New Hampshire men for Statuary Hall in the Capitol at Washington, came up for consideration, and a motion to postpone action, which finally prevailed, had been made,

Mr. Bingham was heard against postponement and in behalf of immediate favorable action, contending that the preservation of the memories of illustrious deeds and men was one of the substantial bases of a liberal education, and he strongly deprecated the manifest reluctance of the House to give its approval to the measure.

The Legislature found time at this session to enact a law in aid of the purity of elections. This act was one introduced by Mr. Bingham and which had been drawn by him with great care and introduced at the previous session when it was indefinitely postponed by vote of the majority party. Introduced again at this session it was favorably reported, from the judiciary committee by Mr. Bingham, July 19. On the day following it was read a second time, when General Stevens of Nashua moved to amend by striking out Sections 3, 4, 5, 6 and 7. The newspaper report of the proceedings states that "quite a lengthy discussion ensued between the two members" (Mr. Bingham and General Stevens) and on the voting being taken upon the motion to amend, Mr. Bingham demanded the yeas and nays with the result that 163 members voted yea and 121 nay, the Democrats mainly casting the negative vote, so the motion prevailed and the bill was emasculated by striking out the sections named.

The bill as introduced by Mr. Bingham and favorably reported from the judiciary committee was as follows:

STATE OF NEW HAMPSHIRE.

In the year of our Lord one thousand eight hundred and seventy six.

An Act in aid of the Purity of Elections.

Be it enacted by the Senate and House of Representatives in General Court convened:

SECTION 1. If any person shall, directly or indirectly, hire, procure, induce or in any way influence, or attempt to hire, procure, induce or in any way influence, by payment, promises, offers of emoluments, offers of reward of any kind, loans of money or other thing, threats or intimidation, any voter to stay away from any town meeting, or to vote at any town meeting for or against any particular ticket or candidate for office, or to ask, in order to disqualify himself from voting at any election, the abatement of his taxes, or, to be excused from paying

taxes, such person shall be fined not more than five hundred dollars, or be imprisoned not more than three months.

SECT. 2. If any person shall, directly or indirectly, contribute or furnish, any money, goods, chattels or other thing whatsoever, to be used to induce any voter to stay away from any town meeting, or to avoid voting at any town meeting, or to vote at any town meeting for or against any particular ticket or candidate for office, or to ask, in order to disqualify himself from voting at any election, the abatement of his taxes, or to be excused from paying taxes, such person shall be fined not more than five hundred dollars, or be imprisoned not more than three months.

SECT. 3. Any voter, at any town meeting, may challenge any other voter offering to vote at such meeting and the moderator shall not receive the vote of such voter so challenged until he shall subscribe and take an oath, before some person by law authorized to administer oaths, or before some one of the selectmen, any one of whom is hereby empowered to administer the same, and shall tender to the town clerk or moderator such oath so subscribed, with the jurat thereon filled out and signed by the magistrate administering the same, which oath shall be as follows:

I ———— solemnly swear that I have not, directly or indirectly, hired, procured, induced or in any way influenced, or attempted to hire, procure, induce or in any way influence, by payment, promises, offers of emolument, offers of reward of any kind, loans of money or other thing, threats or intimidations, any voter to stay away from this town meeting, or to avoid voting at this town meeting, or to vote at this town meeting for or against any particular ticket or candidate for office, or to ask, in order to disqualify himself from voting at this town meeting, the abatement of his taxes, or to be excused from paying his taxes. Nor have I, directly nor indirectly, contributed or furnished, or promised to contribute or furnish, any money, goods, chattels, or any other thing whatsoever, to be used to induce any voter to stay away from this town meeting, or to vote at this town meeting for or against any particular ticket or candidate for office, or ask, in order to disqualify himself from voting at this town meeting, the abatement of his taxes, or to be excused from paying taxes. Nor have I, either directly, or indirectly, been hired or procured, or in any way influenced, by payment, promises, offers of emolument, offers of reward of any kind, loans of money or other thing, threats or intimidations, to vote at this town meeting for or against any particular ticket or candidate for office; but the vote I now offer to cast and the

vote I propose to offer to cast at this town meeting, are in accordance with my solemn conviction of duty to my country, uninfluenced by any payment, promises, offers of emolument, offers of reward of any kind, loans of money or other thing, threats or intimidations whatsoever. So help me God. ————

—— ss. Subscribed and sworn to before me.

———— Selectman.

SECT. 4. In case any voter so challenged, as aforesaid at any town meeting shall not subscribe and take said oath he shall be denied the right of voting at such town meeting, and any moderator who shall receive the vote of a voter so challenged and not subscribing and taking said oath shall be punished by fine not exceeding five hundred dollars, nor less than one hundred dollars.

SECT. 5. Any person who shall subscribe and take said oath, and who in so doing shall swear falsely, shall be deemed guilty of perjury and punished accordingly.

SECT. 6. Any person who at any town meeting has subscribed and taken the oath aforesaid, and who at the same town meeting after taking said oath shall be guilty of any offence named in this act, shall be punished by imprisonment not less than six months nor more than one year.

SECT. 7. The Secretary of State shall prepare and distribute to the clerk of each town, printed blanks for the oath aforesaid at the time he is required by law to furnish said clerks with printed blanks for the return of votes; and it shall be the duty of said clerks to have at hand such blanks at every town meeting, and to keep on file all oaths that may be subscribed and taken as by the act provided, and to make the record of the names of the voters subscribing and taking such oath, and of the fact that it was taken, upon the record of the proceedings of the town meeting at which such oath was taken, a copy of which record, duly authenticated, shall be competent evidence on the trial of any issue in a court of law, so far as it may be material.

SECT. 8. It shall be the duty of the selectmen, at the opening of the town meeting, before any votes are taken, to read this act to the meeting, or to cause the same to be so read.

Mr. Sinclair of Bethlehem offered an amendment which was adopted and incorporated in the act as Section 3, as follows: One half of the fines imposed for the violation of this act shall go to the prosecutor, and the other half to the county. The original Section 8 then became Section 4, and the bill, as thus amended, was then passed, under suspension of the rules moved

by Mr. Bingham, was subsequently passed by the Senate and became the law.

It may properly be added in this connection that the sections cut out of the act on motion of General Stevens, by vote of the majority members, were embodied in a bill introduced by Mr. Hutchins of Laconia and enacted into law in 1885, when Mr. Bingham was a mmber of the Senate, the latter deeming it advisable to have the measure originate in the popular branch. Upon introduction it was referred to the judiciary committee, which subsequently reported it "inexpedient," through Mr. Gilmore of Manchester. This report was laid on the table at the time, on motion of Mr. O'Connor of Manchester, Democrat, and later taken up and considered on motion of the same gentleman. Messrs. Gilmore of Manchester and Bell of Exeter (John J.) favored the report and opposed the bill as unconstitutional, while Messrs. Hutchins of Laconia and Stone of Andover opposed the report and supported the bill, as did also Messrs. Atherton of Nashua and Hackett of Belmont, Republicans, in earnest terms, taking the ground that the Republican party of New Hampshire could not afford to stand, even by implication, for corruption in elections. The yeas and nays being demanded, the report was rejected, 40 to 195, and the bill then passed with substantial unanimity. When it came up in the Senate it was unopposed, and the roll being called on the question of its passage, on demand of Senator Bingham, that every man might properly go on record, not a senator responded negatively. The act was promptly signed by the Governor, and Mr. Bingham at last had the pleasure of seeing his bill in full the law of the state and it remains, today, the New Hampshire statute for the protection of the purity of the ballot — a statute generally regarded as the most stringent and efficacious law of the kind to be found in the entire Union — a substantial monument to the zeal and patriotism of the man who contributed more than any other man of his time to the constructive legislation of the state along beneficent lines.

In 1877, Mr. Bingham's associates, elected from Littleton, were Albert S. Batchellor and Ai Fitzgerald. Augustus A. Woolson of Lisbon, who is still living in that town, was the speaker of

the House, having been elected by 217 votes to 147 for Horatio Colony of Keene, the Democratic nominee, also still living. The chairman of the judiciary committee was Gen. Aaron F. Stevens* of Nashua, the other members, following in order, being, Ex-Chief Justice Sargent of Concord, Mr. Bingham, Barton of Newport, Cross and Topliff of Manchester, Pierce of Hillsborough, Wallace of Milford (Robert M., now chief justice of the Superior Court), Hackett (Frank W.) of Portsmouth, Colony of Keene, Hayes of Dover and Norris of Epping.

On account of an unusual pressure of important professional work at the time, requiring his presence outside the state, Mr. Bingham was unable to be present during the greater part of this session, his colleague and partner, Mr. Batchellor, who was familiar with his views and position on most matters coming before the House, and who kept thoroughly in touch with him, representing him as well as his constituents.

In 1878, when Messrs. Batchellor and Fitzgerald were again his colleagues, Mr. Bingham was in his accustomed place in the House. Mr. Woolson was again the speaker, receiving 190 votes to 158 for Herbert F. Norris of Epping, the candidate of the Democrats. Alpheus W. Baker of Lebanon was the clerk and Charles G. Emmons of Bristol, assistant clerk. The judiciary committee included Messrs. Stevens of Nashua, Marston of Exeter, Bingham, Woodman of Dover, Wallace of Milford,

*Gen. Aaron F. Stevens, born in Londonderry, N. H., August 9, 1819, died at Nashua, May 10, 1887. In youth General Stevens worked as a machinist, having enjoyed limited educational privileges; but he aspired to a higher station and read and studied, privately, for mental improvement. The late Hon. George Y. Sawyer of Nashua, learning of his aspirations and natural ability, invited him to enter his office as a student at law, which he did at the age of twenty-three years. Three years later he was admitted to the bar and immediately became Mr. Sawyer's partner. Their practice was large and important and young Stevens was brought in contact with lawyers of rank and ability, with whom he was soon able to cope successfully. He was for five years solicitor of Hillsborough County, and served in the State Legislature in 1849, 1854, 1856 and 1857, and from 1876 to 1883 inclusive. He was elected to Congress in 1867, and reëlected in 1869. Upon the outbreak of the Civil War he enlisted in the First New Hampshire Regiment and was commissioned major. Subsequently he served as colonel of the Thirteenth. At the siege of Petersburg he led a brigade, and was severely wounded in the assault upon Fort Harrison. In December, 1864, he was brevetted brigadier-general for gallant and meritorious conduct in action.

Blodgett, Shurtleff of Colebrook, Evans of Shelburne, Pierce of Hillsborough, Patten of Manchester, Norris of Epping and French of Moultonborough.

Although performing his full share in the committee work, and looking well to the interests of the state in connection with every measure of importance brought before the House, Mr. Bingham was not active in debate during this session, speaking only when he deemed it necessary. It was only once that he was thoroughly wrought up and made an earnest appeal to the House, and that was when, on August 13, just before the close of the session, he took the floor in opposition to the bill providing for a new representative apportionment, which had been introduced in the interest of the majority party, and which the leaders of that party in the closing hours were planning to crowd through without debate. Mr. Bingham denounced the bill as not only grossly unfair but clearly unconstitutional, and proceeded to point out some of its unconstitutional provisions in regard to the classification of towns, and to remind members of their solemn oaths to support the Constitution, with such effect that Mr. Moore of Nashua, who had the bill in charge, assented to delay and reference to a special committee, of which Mr. Bingham and himself, with three others, were named as members, through whose final agreement and recommendation material changes were made, and an approach to fairness effected before the adoption of the measure.

In 1879, in the first biennial session, Mr. Bingham and Mr. Batchellor alone represented Littleton in the Legislature, no third representative having been elected. Henry H. Huse* of

*Henry Howard Huse, born at West Fairlee, Vt., May 31, 1839, died in Concord, N. H., September 7, 1890. He was a graduate of the Lowell, Mass., high school and studied law with John J. Pillsbury at Pittsfield, before the outbreak of the Civil War in which he served as a captain and for a short time as major in the Eighth New Hampshire Regiment. He was discharged on account of sickness in September, 1863, and the following year engaged in law practice at Pittsfield, removing to Manchester in 1868, where he became a partner of Lewis W. Clark and James F. Briggs. He was active in politics, first as a Democrat and later as a Republican. He was secretary of the Democratic state committee in 1872, but soon after went over to the Republicans and a few years later was chairman of the state committee of that party. He was a Republican member of the Legislature in 1877, 1878 and 1879, being speaker of the House the latter year. He was appointed insurance commissioner in 1888, which office he held till his death.

Manchester was chosen speaker, by 163 votes to 101 for Mr. Batchellor, who was named by the Democrats as their candidate, and upon whom, as in the two preceding sessions, the "field work" of the minority in the House quite largely devolved. Messrs. Baker and Emmons were reëlected clerk and assistant clerk. Gen. Gilman Marston* was chairman of the judiciary committee with Woodman of Dover, and Mr. Bingham next in order, followed by Patten of Manchester, Batchellor, French of Moultonborough, Kimball of Nashua, Key of Gilford, Robinson of Concord, Carr of Andover, Prescott of Derry and Hatch of Greenland. Mr. Bingham also served as a member of the committee on national affairs. In this connection it may be noted that he was the author of an amendment offered by Senator Mann of District No. 2 to certain joint resolutions on national affairs, introduced by Senator Moore of the Nashua District expressive of the sentiments of the majority party, and finally adopted by a strict party vote, though they failed of adoption in the House, coming up near the close of the session when there was no time to devote to their consideration. This amendment, prepared by Mr. Bingham, as a statement of the Democratic position, which was voted down, of course, by the strong Republican majority, when presented by Mr. Mann, was as follows:

That the people of New Hampshire demand free and fair elections, and to that end denounce all interference with elections

*Gen. Gilman Marston, one of the ablest lawyers and strongest men who ever sat in the New Hampshire Legislature, and the close friend of Mr. Bingham for a long series of years, was a native of the town of Orford, born August 20, 1811. He worked his way through college by teaching, graduating from Dartmouth in 1837. He studied law with Judge Leonard Wilcox of Orford, at the Harvard Law School and with Hubbard & Watts in Boston, and commenced practice at the age of thirty in Exeter, where he ever after resided. He soon made his way to the front rank in the Rockingham bar and held his own with the ablest practitioners. He entered politics as a Whig, and became a Republican upon the organization of that party. He served in the State House of Representatives in 1845, 1846 and 1847, again in 1872 and 1873, and from 1876 to 1889 continuously, having been elected fourteen times in all. He also served as a representative from the First New Hampshire District in three congresses, having been elected in 1857, 1861 and 1865. In 1889 he served three months in the United States Senate by executive appointment. He was colonel of the Second New Hampshire Regiment in the Civil War; was wounded at Bull Run; promoted to brigadier-general for gallant service, and fought at Drury's Bluff, Cold Harbor and Petersburg. He died at Exeter, July 3, 1890.

by the military power; that the experience of this and other countries has abundantly proved that the presence of troops at the polls is destructive of the freedom of elections, and incompatible with the existence of free institutions; that the laws enacted by Congress, which under the pretense of regulating the manner of congressional elections, interfere with the election of state officers, and overthrow the laws of the states governing the choice of such officers, are unconstitutional, and for that reason ought to be repealed; that they are also instrumentalities of fraud, force and corruption, by which the party in power uses the money of the people to corrupt, and thousands of irresponsible officers to harass and coerce the voters, and especially by force and fraud to deprive our naturalized citizens of the right to vote, and for these reasons also said laws ought to be immediately repealed.

Resolved, That impartial juries are essential to the administration of justice, and thereby to the preservation of liberty; that no man can be secure in his person or his property when the juries are packed and controlled by the government for despotic and partisan purposes; that under federal jury laws, now in existence, juries may be and have been so packed and controlled that the highest interests of free government and justice require that these laws be changed so as to secure fair, impartial and independent juries in the federal courts.

Resolved, That the Republican members in Congress, by refusing to vote supplies to maintain the government, unless the majority would agree to the use of troops at the polls, and also to the maintenance of the corrupting, violent and unjust election laws aforesaid, and the acting President of the United States by his unprecedented use of the veto power, in order to perpetuate said laws, and the use of armed men at the polls, have shown a spirit of faction and a devotion to party success, instead of the welfare of the country and the preservation of its Constitution and liberties, that command the condemnation of the whole American people.

Resolved, That acting President Hayes, by his frequent interposition of the veto, in order to defeat legislation that was plainly constitutional, that in no way interfered with the independence of any other department of the government and had received most mature consideration of Congress, has shown utter disregard of the consideration and principles that induced the insertion of the veto power into the Constitution and a like disregard of the wishes and welfare of the people.

That we declare it to be the duty of the Democratic majority in Congress not to grant any money which may be used in any way

for the illegal and unconstitutional purpose of controlling or influencing the elections of the people; but, remembering the patriotic example of our English ancestors and their successors, who have for more than a century refused supplies to a treacherous and usurping monarch, they will repel, indignantly and finally, the attempts of the acting president to coerce them to disregard their solemn duty to the people, by unconstitutional and partisan vetoes.

That the federal Union was established by the Constitution for the purpose of regulating and controlling the relations of the republic with foreign nations, and the relations and intercourse of the people of the states with each other; that the powers of the government of the Union are specially delegated by the Constitution, and within the limits of those powers the Union is sovereign and supreme, but outside of those limits its acts are null and void; that all powers not specifically granted to the government of the Union, or necessarily implied to enable it to perform its specifically defined functions, are reserved by the Constitution to the states and the people; that the states are as sovereign and supreme within the sphere of the powers reserved to them as the Union is sovereign and supreme in the sphere of the powers granted it; and the invasion of the powers reserved to the states by the government of the Union is as much a crime, and as destructive of our federal system, as would be the invasion of the powers delegated to the Union by the states or the people; and deserves and should receive the pointed condemnation of every true friend of democratic-republican government, and of popular liberty.

That we view with regret and alarm the constant tendency of the Republican party toward the establishment of a consolidated government which is evinced by its usurpation of power not granted by the Constitution to the Union, its constant derision and denial of the rights and powers of the states reserved to them, and its notorious profligacy and extravagance in the expenditure of the people's money; and we solemnly believe that if such tendency is not soon arrested by the people, our beloved republic will be merged in an empire and ultimately in an irresponsible despotism.

Near the close of the session of 1879, an effort was made by Mr. Jones of Weare to secure a suspension of the rules to enable him to introduce a bill providing for the commutation of the sentence of Joseph B. Buzzell of Brookfield, under sentence of death for the murder of Susan Hanson of that town. The attempt failed, but, upon notice, a motion was subsequently

made to reconsider the vote by which the House refused to allow the introduction of the measure, and Mr. Bingham was heard in forcible opposition to the motion, speaking on constitutional grounds and along the same lines as in the Weir case in 1864, to which he made reference in the course of his remarks.

At the election in November, 1880, Harry Bingham and William A. Richardson were chosen representatives in the Legislature from Littleton for the biennial session of 1881, when the House organized with Chester B. Jordan of Lancaster, now an honored ex-governor of the state, as speaker, he having received 174 votes to 102 for George W. Cochrane of Farmington (now of Rochester), the Democratic candidate. Charles G. Emmons of Bristol was chosen clerk, and Edwin F. Jones of Manchester, assistant. General Marston was again chairman of the judiciary committee, and the speaker paid Mr. Bingham the graceful yet well merited compliment of naming him for second place, with William E. Chandler of Concord next in order, and Cochrane, Colby, Sanborn of Franklin, Frost of Dover, Hatch of Greenland, Heath of Manchester, Robinson of Concord, Eastman of Hampstead and Symonds of Keene, following in order.

There was little of partisan controversy in the House during this session, but several questions came up for consideration which developed discussion, in which Mr. Bingham participated and in which he was heard with interest and given most respectful attention. Prominent among these was that bearing upon the election of a United States senator. The constitutional amendment of 1876, which went into effect in 1878, establishing biennial elections instead of annual, and changing the time thereof from March to November, so affected the situation that the Legislature chosen next preceding the expiration of the senatorial term did not meet and organize until three months after such expiration, thus leaving a vacancy in the state's representation in the Senate for that length of time, or until the Legislature should organize and make choice of a senator, every year in which a senatorial term expired, or twice every six years. The contention was put up in some quarters that, under the circumstances, it became the duty of the Legislature last *organized* before the expiration of the term to make choice of a

senator, so that there should be no vacancy to be filled by executive appointment, or to remain unfilled, as the case might be. This view, however, did not prevail in the Legislature of 1878, which body failed to elect a successor to Senator Bainbridge Wadleigh, whose term was to expire March 4, 1879, the choice being left to the Legislature of 1879, to be chosen at the then pending November election, which Legislature, when duly organized the following June, elected Henry W. Blair as senator, the position having been filled in the interim by Hon. Charles H. Bell, under executive appointment, as similar vacancies had previously been filled. Some of the earnest partisans of Senator Edward H. Rollins whose term was to expire March 4, 1883, feeling that if choice were to be made at that time Mr. Rollins would be reasonably sure of reëlection, and that changed conditions might render such result impossible two years later, initiated a movement in favor of the election of senator at this time. The question was mentioned in the governor's message and referred to the judiciary committee in the House, a majority of whom reported, June 10, through Mr. Chandler, presenting the following resolution:

Resolved, That the House will not go into the election of United States senator at this session, and that the subject be postponed to the next session of the Legislature.

A minority, through Mr. Henry Robinson of Concord, reported the following:

Resolved, 1st, That the New Hampshire Legislature now in session has the legal power and authority and is under the legal obligation to choose a senator in the Congress of the United States, for the full term to commence March 4, 1883.

2d, That it is expedient to proceed with the election of United States senator on Tuesday, the 14th of June, next, according to law.

These reports came up for discussion in the House, June 14, the majority report being sustained by Mr. Chandler, General Marston and Mr. Bingham, and the minority by Mr. Quint (Rev. Alonzo H.) of Dover, all speaking with earnestness and ability. Attention was called during the discussion to the fact that the Senate had asked the opinion of the Supreme Court upon the question of the right or duty of the Legislature in the premises,

and, although it appeared that six of the seven justices had united in expressing the opinion that the Legislature then in session had the right to elect, that opinion was regarded as entitled to no more consideration than that of any six good lawyers, and certainly no more than that of an equal number of members of the judiciary committee of the House, and indeed, seemed to be resented by some because of the fact that the Senate had presumed to ask for it without consulting the House or asking it to join in the request. The matter was brought to an issue upon the motion of Mr. Quint to amend the majority report by striking out the word "not" in the first clause, and all of the second clause. The yeas and nays being called on the question 118 members voted in the affirmative and 182 in the negative; so the motion was lost and the matter practically disposed of, the majority report being subsequently adopted. The majority vote, it may be noted, included practically all the Democrats in the House, while substantially all the minority were Republicans, being an actual majority of that party in the House. Mr. Bingham's discussion was based wholly on legal and constitutional grounds. The Concord *Monitor* of June 16, referring to the subject, said: "As a constitutional exposition of the points involved the speech of Harry Bingham will take high rank. His defence of the majority report of the judiciary committee is admitted on all hands to have been masterly."

On the 14th of July, a joint resolution appropriating $3,000 for the New Hampshire Veterans Association for the construction of barracks at The Weirs for the use of the association on "Reunion" occasions, being under consideration, and some opposition appearing, Mr. Bingham spoke in favor of the appropriation, saying that while he was in favor of economy in the expenditure of the money of the state, he could not imagine a better purpose to which the money asked for in the resolution could be put. We have appropriated money to celebrate the battle of Yorktown, said he, and it is still more proper that these soldiers who took their lives in their hands should be enabled to keep alive the memory of their valor. He had found that the soldiers of both armies became the best citizens, and nobody fraternized more heartily than these Union and Con-

federate soldiers. He had no doubt that if the veterans of the state were provided with a suitable place on the shore of our beautiful lake, the Confederate soldiers would be welcomed there and good feeling would result. Not every one coincided with this opinion of Mr. Bingham at the time; yet only a few years passed after that before a distinguished Confederate general was an honored guest and leading speaker at the veterans' annual reunion at The Weirs!

Only July 21 Mr. Bingham was heard upon a measure involving the taxation of church property, the proposition being the repeal of the then existing law taxing all church property over $10,000 in value. He took the ground that extravagant expenditure in church buildings was not in accordance with the example and teachings of the great founder of Christianity, and ought not to be encouraged, and he expressed the belief that if such extravagance was resorted to, in direct opposition to such example and teachings, those indulging therein ought not to object to paying taxes upon such investment.

It was at this session that the bill extending the Dover and Winnipiseogee Railroad from Alton Bay to Laconia and The Weirs, otherwise known as the Lake Shore Railroad bill, was enacted. Wide interest was taken in this bill, in different sections of the state, on the one side or the other, and considerable excitement prevailed, especially in the lake region. Mr. Bingham opposed the measure, and spoke against it when it was under consideration, July 28, basing his opposition upon the feeling, largely prevailing in the northern portion of the state, to the effect that it was more desirable to develop the railroad system at the north, at that time, than to build this Lake Shore line, which would never accommodate a large amount of business. While not opposing the project, *per se,* he believed it should be postponed till other projects, more essential to the development of the state, were carried out.

Another question upon which Mr. Bingham was heard at some length and much force at this session was that of minority representation in corporations, a bill providing for which having been introduced, and which he supported in an earnest and powerful speech on the 17th of August, the measure being defeated,

however, by a large majority, through the strong influence exerted over the Legislature by corporations, at that time, if not always.

In the legislatures of 1883 and 1885 Mr. Bingham served as a member of the Senate for the Second or Grafton District, the opposing or Republican candidate over whom he was elected, being Alexander Warden for the former term, and Joseph M. Jackman for the latter. The Senate of 1883 included Irving W. Drew for District No. 1; David E. Willard, No. 3; Benjamin F. Perkins, No. 4; Jonathan M. Taylor, No. 5; Levi T. Haley, No. 6; Chester Pike, No. 7; Thomas Dinsmore, No. 8; Charles H. Amsden, No. 9; Henry Robinson, No. 10; Aaron Whittemore, No. 11; Charles W. Folsom, No. 12; George K. Harvey, No. 13; George G. Davis, No. 14; George W. Cummings, No. 15; George A. Wason, No. 16; Amos Webster, No. 17; Charles H. Bartlett, No. 18; Israel Dow, No. 19; Benjamin R. Wheeler, No. 20; Thomas F. French, No. 21; Lafayette Hall, No. 22; James F. Seavey, No. 23, and James Laighton, No. 24.

Charles H. Bartlett* of Manchester was elected president of the Senate in 1883, Mr. Bingham being voted for by the Democratic senators. Frank D. Currier, now representative in Congress from the Second District was elected clerk, and Ira A. Chase of Bristol, assistant clerk.

The Fifth District was without representation when the Legislature assembled, Daniel S. Dinsmore of Laconia, the Republican senator-elect, having died after the election and before the Legislature convened. Jonathan M. Taylor of Sanbornton, the Democratic nominee, and one David Shaw, who received four

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*Charles H. Bartlett, born in Sunapee, October 15, 1833, died in Manchester, January 25, 1900. He was educated in the academies at Washington and New London, studied law with Metcalf & Barton at Newport, George & Foster in Concord, and Morrison & Stanley in Manchester, was admitted to the bar in 1858 and commenced practice at Wentworth, removing to Manchester in 1863 where he continued with much success. He was clerk of the New Hampshire Senate from 1861 to 1864, and of the United States District Court from 1867 to 1883. He also served as city solicitor in Manchester in 1867 and as mayor in 1883, resigning the latter office to accept that of United States commissioner. He was chosen to the Senate in the fall of 1882, and chosen president on the organization of that body the following year. He also served in the Constitutional Convention of 1876 and that of 1889. Dartmouth College conferred upon him the honorary degree of Master of Arts in 1881.

votes at the polls, being the constitutional candidates. When the matter of the vacancy was formally called to the attention of the House, and the latter body notified that the Senate was ready to go into convention for the purpose of electing a Senator, the Republican majority laid the matter on the table, and took no further notice of it, until after the Senate had been invited by the House to go into convention for the election of state officers, June 13, when a motion was made to meet the House in convention for such purpose. This motion was opposed by Senator Bingham and Senator Drew, on the ground that it would be unconstitutional to do so until after the Fifth District vacancy was filled, and was defeated by a vote of 9 to 11. It was not until June 19, when the time came to ballot for United States senator, that the House "came to time" and voted to go into convention with the Senate for the former purpose, which was done with the result that Mr. Taylor had 173 votes to 103 for Mr. Shaw, given by those Republicans who could not bring themselves to the point of voting for the man who had been the Democratic candidate in his district.

Mr. Bingham was named by President Bartlett as a member of the judiciary committee, of which Senator Robinson was chairman, the other members being Senators Seavey, Cummings and Drew. He was also given the unusual distinction, for a minority member, of the chairmanship of the committee on revision of the laws, and named on the finance and election committees. He also served with Senator Robinson on the special committee to whom the message of the governor was referred.

This session of the Legislature was of unusual length, continuing until September 15, having been protracted because of the bitter and long-drawn struggle over the election of United States senator, resulting in the defeat of Edward H. Rollins for reëlection, and the ultimate election of Austin F. Pike, and the fight over the "Colby bill," so-called, providing for the establishment of railroad corporations by general law.

On the ballot for United States senator in the Senate, Mr. Bingham, himself, who was the nominee of the Democratic legislative caucus, as on many previous occasions, received 6 votes,

Mr. Rollins 10, Aaron F. Stevens 2, Gilman Marston 1, James F. Briggs 1 and William S. Ladd 1, the latter vote being given by Mr. Bingham himself, who continued to vote for Judge Ladd throughout the entire contest. In the joint convention on the following day, June 20, Mr. Bingham received 119 votes, Edward H. Rollins 113, James F. Briggs 29, James W. Patterson 29, Aaron F. Stevens 17, Gilman Marston 11, Benjamin F. Prescott 2, Mason W. Tappan 1, Charles H. Bell 1, Person C. Cheney 1 and William S. Ladd 1. The voting proceeded, daily, until August 2, Mr. Bingham always in the lead with the solid Democratic vote, with Rollins leading all other Republicans until July 12, when, finding his election impossible, he withdrew, and William E. Chandler, starting with 52 votes, led the Republican contestants till July 27, when Austin F. Pike forged ahead with 65, and finally, on August 2, when two ballotings were had, was chosen on the second ballot, by 181 votes, to 112 for Mr. Bingham, 18 for General Marston, 1 for Rollins, 1 for Stevens and 1 for Ladd.

Mr. Bingham was among the earnest opponents of the "Colby bill," and spoke at length against the measure when it came up for consideration in the Senate, September 5; no report, not even an abstract of his speech, is preserved, however, the proceedings of the Senate always being reported in the most condensed form by the newspapers, and the journals containing no debate; so that, in fact, it can only be said of his work in the Senate, for both terms, that he did his duty, as usual, faithfully and well. It is safe to say, moreover, that at no time in the state's history was the legislation sent up from the House more carefully scrutinized in the upper branch than during the two terms of Mr. Bingham's incumbency as a member of the latter body.

Among the various amendments to the Colby bill, presented and rejected in the Senate before its final passage, by a vote of 16 to 8, was one offered by Mr. Bingham, providing that "in case the Concord Railroad shall be leased to, or united with, any other railroad or railroads, the Supreme Court shall appoint three appraisers who shall appraise the value of the right of the state to take the Concord Railroad, and also the entire value of the same, and, in case of a lease, a part of the rental shall be

paid to the state, corresponding to the proportion that such appraised value of the interest of the state bears to such appraised value of the railroad; and in case of union the state shall be paid for its interest so appraised, in the stock of the new corporation."

In the Senate of 1885, Mr. Bingham had as associates, Henry O. Kent of District No. 1; Elias H. Cheney, No. 3; Manson Brown, No. 4; John F. Taylor, No. 5; Asa M. Brackett, No. 6; Chester Pike, No. 7; John S. Collins, No. 8; Walter S. Davis, No. 9; Lyman D. Stevens, No. 10; Jonathan F. Berry, No. 11; Thomas G. Jameson, No. 12; William P. Chamberlain, No. 13; Murray Davis, No. 14; Peter H. Clark, No. 15; William H. W. Hinds, No. 16; Hiram T. Morrill, No. 17; Abraham P. Olzendam, No. 18; Edwin H. Hobbs, No. 19; Jesse Gault, No. 20; Nathaniel H. Clark, No. 21; John Hatch, No. 22; William H. Morton, No. 23; Moses H. Goodrich, No. 24. It will be seen that the only one of the former Senate reëlected, aside from Mr. Bingham, was Senator Pike* of No. 7, who was chosen president, Mr. Bingham receiving the seven votes of his Democratic associates for the same office. Messrs. Currier and Chase were respectively reëlected clerk and assistant clerk.

The chairman of the judiciary committee of the Senate this year was Senator Stevens† of District No. 10, Mr. Bingham again holding second place, as well as the chairmanship of the committee on revision of the laws, and membership on the finance

*Chester Pike, born in Cornish, July 30, 1829, died in that town November 29, 1897. He was educated in the public school and Hartland (Vt.) and Kimball Union Academies. He taught school winters in youth, and ultimately engaged very extensively in agriculture and the buying and selling of cattle and other farm products; also in lumbering. He also took an active part in politics, was a commissioner for Sullivan County in 1859, 1860 and 1861, and a representative in the Legislature in 1862 and 1863. In the latter year he was appointed United States provost marshal for the Third New Hampshire District. Subsequently he was United States collector of internal revenue. He was chosen to the State Senate from the Seventh or Sullivan District for 1883, and 1885, serving as president the latter year. He was an active member of various agricultural societies, and many years president of the Connecticut River Society.

†Lyman Dewey Stevens, born in Piermont, September 20, 1821, died in Concord, March 26, 1909. He was educated at Haverhill Academy and Dartmouth College, graduating from the latter in 1843. He taught for a time, then studied law with the late Hon. Ira Perley, and was

committee. His association in the judiciary committee, of which the other members were Senators Davis, Chamberlain and Kent, was especially pleasant from the fact that Senator Stevens, the chairman, with whom he had also served in the House, was an old college friend and classmate, with whom he had always maintained most cordial relations although differing with him radically, in political matters.

This session, so far as the Senate was concerned, was characterized by no exciting controversy or serious debate, and was generally known as a working session. It was during this session, it may be noted, that the measure providing for the town school system, and the abolition of the old time districts, was enacted, but it should also be noted that Mr. Bingham was among the most earnest in his opposition to the measure, in conformity with his well settled conviction that the closer the contact of the individual citizen with the control of public affairs, the safer the liberties of the people.

Mr. Bingham was not a member of either branch of the Legislature of 1887—the length of whose session, by the way, exceeded that of any other in the history of the state, being protracted, mainly, on account of the great railroad contest in which the Hazen and Atherton bills, so called, were at the front —the former backed by the Boston and Maine and the latter by the Concord Railroad interests. He was present in Concord, however, during a considerable part of the session, as counsel for the Boston, Concord and Montreal Railroad, in which capacity he opposed the Hazen bill and supported the Atherton bill. The Hazen bill, which, as will be recalled, ultimately passed, with certain amendments, though repudiated by its nominal sponsor, only to be vetoed by Gov. Charles H. Sawyer, was designed to authorize the leasing of practically all other roads in the state by the Boston and Maine; while the Atherton

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admitted to the bar in 1847, commencing practice in Concord and there continuing. He was city solicitor in 1855 and 1856; a member of the House of Representatives in 1860, 1864, 1866 and 1867; mayor of Concord in 1868 and 1869; a presidential elector in 1872; a member of the executive council in 1881, and of the State Senate in 1885. He was active in banking and educational affairs, and deeply interested in all matters of public concern.

bill authorized the leasing of the Boston, Concord and Montreal and other northern lines by the Concord.

The principal argument before the railroad committee of the House, in opposition to the former and in support of the latter was made by Mr. Bingham, on the evenings of August 10 and 11, two hours being occupied each evening, or four hours in all, in its presentation, the hall of the House being filled by members and other interested parties; while the closing argument for the Hazen bill was made by Gen. Charles H. Burns of Wilton, counsel for the Boston and Maine. Both were masterly productions in their line, that of General Burns being the more ornate and rhetorical; while that of Mr. Bingham was a clear cut, logical presentation of fact and argument, without verbal embellishment or impassioned appeal, in accordance with the usual style of the speaker.

In the Legislature of 1889, whose session was the last held in the summer season (the Constitutional Convention of the previous winter having provided for a change from June to January in the time of meeting and the people ratifying the same at the next election), although the town of Littleton, which had been politically exceedingly close for a number of years, had then passed into Republican control, Mr. Bingham was again representative, but had a Republican colleague in the person of Mr. Isaac Calhoun. The House this year organized by the choice of Hiram D. Upton* as speaker, he receiving 170 votes to 134 for Oliver E. Branch of Weare, who was the minority candidate. George A. Dickey was elected clerk, and Stephen S. Jewett, assistant clerk. General Marston was again chairman of the judiciary committee, with Mr. Bingham sec-

*Hiram D. Upton, born at East Jaffrey May 5, 1859, died in Manchester December 1, 1900. He was educated at Appleton Academy, New Ipswich, Kimball Union Academy, and Dartmouth College, graduating from the latter in 1879. He entered the service of the Monadnock Bank, at East Jaffrey, and soon became cashier, continuing till 1886, when he went to Minnesota and became president of the Northwestern Trust Co. at Fargo. This was, later, merged in the New Hampshire Trust Co., doing business at Manchester, of which he was at first treasurer and later president, till its collapse. He was also extensively engaged in real estate operations in Manchester. He was elected to the Legislature of 1889, and made speaker of the House. He was president of the Republican State Convention in 1893.

ond, and Messrs. Sanborn of Franklin, Sulloway of Manchester, Branch, Heath of Manchester, Faulkner of Keene, Holt of Claremont, Chamberlin of Berlin, Huntington of Hanover and Collins of Gilsum following, in order.

There was little in the line of partisan controversy during the session, but a good deal of general legislation was attempted, and a considerable amount carried through. Among measures which did not pass, however, in which Mr. Bingham took an interest, were a proposed Australian or secret ballot law, and a license law—the former being postponed to the next session of the Legislature, while the latter, which was earnestly supported by Mr. Bingham, and which he advocated vigorously on the floor in the final debate on August 14, was defeated outright by a final vote of 118 to 144. He had long regarded the prohibitory law as a practical failure, not enacted to be enforced, and retained upon the statute book for partisan purposes only, to be used, by officials, as a sort of "club" with which to compel support of the Republican party by the liquor interests of the state, and he always favored the enactment of a stringent license law in its place, in the interests of temperance.

Another measure upon which he is recorded as speaking at this session, and which he strongly but unsuccessfully opposed, because of the principle involved and the precedent which its enactment would establish, was one authorizing the town of Newport to exempt from taxation a projected water works system. Mr. Bingham took the ground that as this was a purely private enterprise to be entered upon with the primary purpose of earning money for the investors, the business should be taxed like any other. General Marston took the same position, but the bill eventually passed and became a law, and many similar measures have since been enacted.

It was this Legislature that was strongly memorialized for some proper and permanent tribute to the memory of Gen. John Stark, and, on the ninth of July, a special committee was appointed, in the House, to take the matter under consideration. Of this committee Mr. Bingham was chairman, the other members being, General Marston, Lord of Manchester, Smith of Alstead, Larrabee of Pembroke, Phipps of Milan, Garvin of

Wolfeboro, Leavitt of Sanbornton, Newton of Unity and Bennett of Farmington. This committee finally presented a joint resolution appropriating $12,000 for a suitable statue of General Stark, and recommended its passage. On its third reading, August 13, decided opposition developed under the leadership of Smith of Laconia. Mr. Bingham addressed the House earnestly, in support of the measure, saying that the object was one which should appeal to all patriotic citizens, and it certainly could not be contended, in view of appropriations already made, that the state was unable to provide for such memorial. The fame of the state is due largely, he said, to the fame of her soldiery, yet, thus far, not a single statue has been erected to any of her military heroes. The New Hampshire man whose heart is not thrilled when he recalls the brave deeds of its soldiers, of whom General Stark was a fitting type, must be cold indeed. His memory deserves and should receive this mark of recognition. Mr. Branch of Weare followed in a strong appeal in behalf of the resolution, which finally passed by a substantial vote, and the outcome was the statue of General Stark which now stands in the state house park.

The Legislature of 1889 was the body which was summoned to meet in special session by Governor Goodell, upon the urgent demand of the Republican party leaders, on the second day of December, 1890, just before the expiration of its term of service, ostensibly on account of "grave public exigencies" but really to make sure of a clerk of the House upon whom the leaders in question could depend in the making up of the roll of membership of the incoming House. At the election in November previous there had been no choice of governor by the people, the election, thereby, going over to the incoming Legislature, while there was question as to the right to seats in the House of two classes of members-elect—those chosen on account of increase in population in their respective towns and wards, under the census then just taken, who were generally known as the "if entitled" members, and those chosen in towns which had formerly been "classed," but which, under the new Constitution, just adopted, were authorized to elect only in certain years to be designated by the Legislature, the previous Legislature hav-

ing failed to make such designation. The exclusion of the former class, and the inclusion of the latter would give control of the Legislature to the Democrats, and carry with it the election of Charles H. Amsden, the candidate of that party as governor; while the inclusion of the former and the exclusion of the latter would put the Republicans in legislative control and insure the choice of Hiram A. Tuttle, their gubernatorial nominee, as chief magistrate.

There was doubt in the minds of some of the Republican leaders as to their ability to control George A. Dickey, then clerk of the House. Although a Republican he was thought to be a fair-minded and independent man, who in his official action would do what he considered right, regardless of purely partisan interests. Finally, as he had moved outside the state (though he might still have claimed a residence for political purposes had he been disposed to do so) he was persuaded to send in his resignation as clerk. This left the office vacant. There was no doubt of the position of Stephen S. Jewett, the assistant clerk. He was to be depended upon by his party leaders in any emergency; but there was doubt as to his right to act as clerk under the cirmumstances. It was determined to take no chances, and the special session was called simply for the purpose of making Mr. Jewett clerk, which was done, and practically nothing else was done during the four days of the session, no legislation of any kind, bearing on the situation being carried through or attempted; though a new chairman of the judiciary committee, in place of General Marston, who had died since the close of the regular session, was named at the outset, by the speaker, in the person of one George W. Cummings of Francestown, never before prominent in legislation, but regarded as a "safe" man from the party standpoint. This was done to provide against emergencies, since Mr. Bingham, who ranked next to General Marston on the committee as constituted, would otherwise have been the chairman. It became the sad privilege of the latter to introduce from the committee at this session, a resolution of respect to the memory of his long time friend and associate—the distinguished lawyer, soldier and legislator—Gen. Gilman Marston, which was unanimously adopted.

The legislative session of 1891, opening on the first Wednesday in January, under the amended Constitution—the first of the regular winter sessions, was the last in which Mr. Bingham took part, his Littleton colleagues for the session being Israel C. Richardson and Leslie F. Bean, both Democrats, that party being again in the ascendant in the town, by a close vote.

The meeting of the Legislature had been awaited with unusual interest, not to say anxiety or excitement, and in some quarters fears of violent demonstrations were entertained and expressed, in view of the counter claims of the opposing parties as to the rightful control of the House. An attempt had been made on the part of the Democrats to secure the intervention of the Supreme Court, a petition for an injunction having been filed by Mr. Bingham, in behalf of himself and others, to restrain Clerk Jewett from placing upon the roll of the House the names of the so-called "if entitled" members-elect. A special term of court had just been held, in which arguments for and against the petition, by eminent counsel, had been heard, Mr. Bingham himself making the final argument on behalf of the petitioners, no report of which was ever published, but which was characterized by those who heard it as remarkably strong and vigorous. The court—six of the seven justices concurring, Judge Blodgett alone declining to express an opinion,—had refused to interfere, on ground of "no jurisdiction," which outcome had unquestionably operated to strengthen the Republican position in the popular mind, and encouraged Clerk Jewett to proceed with the Republican plan in preparing the roll of the House, if indeed he had ever felt any hesitation in the matter which is scarcely probable. At all events that plan was carried out to the letter. The names of the "if entitled" contingent were placed on the roll, and those of the members from the former classed towns omitted, thus insuring a good working Republican majority, at the start. All attempts on the part of the Democrats to balk the plans of their opponents failed, utterly. The clerk upon calling the House to order refused to entertain any motion made by Mr. Bingham or any Democratic member, claiming that nothing else was in order until an organization was effected, and an attempt by Mr. Bingham to put a motioin himself was utterly

abortive in the midst of the confusion and uproar that prevailed, and, in view of the well understood fact that armed policemen were scattered through the building, awaiting the call of the clerk, in case any determined interference with the plan of organization were entered upon, there was nothing to be done, under the circumstances, but submit, regardless of the question of right involved. The House was organized by the election of Frank G. Clarke*, the Republican candidate for speaker, by 177 votes, to 152 for Edward B. S. Sanborn, the Democratic nominee. Mr. Jewett was reëlected clerk and William Tutherly, Jr., assistant clerk.

The chairmanship of the judiciary committee went to James F. Briggs* of Manchester, with Mr. Bingham next in rank, followed by Sanborn, Sulloway of Manchester, Heath of Manchester, Green, Spring of Lebanon, Holmes of Keene, Holman of Hillsborough, Davis of Warner, Nash of Conway and Taft of Greenville.

It was at this session that the secret, or Australian ballot law of the state was enacted. A strong effort had been made in

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*Frank G. Clarke, born in Wilton September 10, 1850, died at Peterborough January 9, 1901. He fitted for college at Meriden, and graduated from Dartmouth in 1873. He studied law with Col. Albert S. Scott at Peterborough, was admitted to the bar in 1876, and engaged in practice as a partner of Colonel Scott, continuing till the death of the latter. He served on the staff of Gov. Samuel W. Hale, was elected to the Legislature of 1885 from Peterborough and to the State Senate of 1889. Again elected to the House for 1901, he was chosen speaker. He was chosen as representative in Congress from the Second District in 1896 and re-elected in 1898.

*James F. Briggs, born in Bury, Lancashire, England, October 23, 1827, died in Manchester, N. H., January 21, 1905. His father removed to America when James was an infant, and finally located at Holderness, now Ashland, in this state, where he engaged in manufacturing, and the son grew up, attending school for a time at Newbury, Vt., and Sanbornton Bridge, now Tilton. He studied law with Joseph Burrows at Plymouth, and Nehemiah Butler at Penacook, was admitted to the bar in 1851, and located in practice at Hillsborough, which town he represented in the Legislature, as a Democrat, in 1857, 1858 and 1859. He enlisted in the Union service in the Civil War, serving as quartermaster of the Eleventh New Hampshire Regiment. After the war he established his law practice in Manchester, coming to the House as a Republican in 1874, and the State Senate in 1876. He was a representative in Congress from 1877 to 1885, was again chosen to the Legislature in 1883, in 1891, and in 1897, being speaker the latter year. He was a delegate in the Constitutional Conventions of 1889 and 1902.

behalf of such a measure at the previous session, but the matter went over, a special committee, consisting of Messrs. Branch of Weare, Greene of Hopkinton and Stearns of Rindge, having been appointed to consider the subject, and report to the next Legislature. This report came in strongly recommending the adoption of the secret voting plan, and accompanied by a bill, prepared by the committee, designed to carry it into effect. This bill and report, along with several other bills of like import, introduced by different members, were referred to a special committee consisting of George F. Page of Ward 4, Concord, Mr. Bingham, Greene, Steele of Dover, Heath, Pillsbury (L. H.) of Derry, Jewell of South Hampton, Woodbury of Bedford, Young of Landaff, Gray of Jackson, Eastman of Weare, and Coffin of Dummer.

This committee labored long and earnestly, but was unable to come to an agreement. Finally a majority report recommending a carefully drawn measure prepared by Mr. Bingham was presented by him; while a minority, consisting of four members —Messrs. Page, Pillsbury, Coffin and Jewell, united in recommending a measure prepared by Mr. Page and generally known as the "Page bill," which bill was ultimately passed by the House and became the law, the minority being substituted for the majority report, notwithstanding the greater number, experience and prestige of the committee supporters of the other measure. This result came about largely through the zeal and earnestness of Mr. Page, who had taken great interest and pride in his work, and succeeded in convincing Republican members quite generally (though his measure was not without Democratic support) that his bill was preferable to the other from the party standpoint.

It was at this, his last session in the Legislature, in which, however, he was no less active or vigilant in the discharge of his duties as a servant of the people than he had been at any time in his long career as a member of the law-making body, that Mr. Bingham, who had been the candidate of his party in the Legislature for United States senator for many years, feeling that the compliment of the nomination should now go elsewhere, declined the further use of his name in such connection.

It was this withdrawal on his part that inspired the *Concord Monitor,* which seldom had a word of commendation for any Democrat, to publish the following editorial, appearing under the caption, "A Kind Farewell to Harry Bingham," in its issue of January 20, 1891:

The withdrawal as senatorial candidate of Mr. Bingham leads us to speak of his merits without dwelling upon his faults. His political principles have been utterly antagonistic to Republican opinions. But he has ever been open and manly. No deception or subterfuge has ever characterized his course. He has hit out from the shoulder like a fair and courageous fighter, and he is to be respected as one of the strongest men, intellectually, whom the state has produced. He has a logical mind and wonderful power of statement, equal to, if not exactly like that possessed in so great a manner by his lifelong associate and friend, Gilman Marston.

Mr. Bingham's last argument, that before the court, in favor of its jurisdiction, to order the clerk of the House, the creation of the statute, to make up the roll exactly as the statute required, was a brief masterpiece of legal reasoning and convinced many minds. His legal efforts have all been of a high character; his politics have always been consistent, and his methods in the main have been public and honorable. He and they are to be superseded by Mr. Sinclair and new methods of which we shall shortly have occasion to speak. But it is doubtful whether any greater success for the Democracy will result from the change of leadership. Mr. Bingham has always been at the open front of battle, his political opponents have recognized his ability and courage, he has been a conspicuous and commanding figure before the people of the state; and Republicans can afford to bid him farewell with feelings not unmixed with admiration, and with no unkind wishes concerning the future of his long and laborious life.

In addition to his extended service in the Legislature, Mr. Bingham represented Littleton as one of its delegates in the Constitutional Convention of 1876, his associates from that town being Col. Cyrus Eastman and John Farr. Many of the ablest men in the state were included in the membership of the convention, which was presided over by Hon. Daniel Clark of Manchester, judge of the United States District Court, a former

member and president *pro tem* of the United States Senate, with Thomas J. Smith of Dover as clerk and Alpheus W. Baker of Lebanon, assistant clerk.

Among the more prominent delegates were Greenleaf Clarke of Atkinson, Gilman Marston and William W. Stickney of Exeter, John S. H. Frink of Greenland, Ichabod Goodwin, James W. Emery, W. H. Y. Hackett and Daniel Marcy of Portsmouth, Samuel M. Wheeler and George B. Spaulding of Dover, George N. Eastman of Farmington, Nichols V. Whitehouse of Rochester, George W. Burleigh of Somersworth, Benjamin J. Cole of Gilford, Thomas J. Whipple of Laconia, Bradbury C. Tuttle of Meredith, George W. M. Pitman of Bartlett, W. H. H. Mason of Moultonboro, Sanborn B. Carter and Samuel D. Quarles of Ossipee, John W. Sanborn of Wakefield, John M. Shirley of Andover, John W. Morse of Bradford, Jacob H. Gallinger, Jonathan E. Sargent, John Kimball, William E. Chandler and Benjamin A. Kimball of Concord, Isaac N. Blodgett and E. B. S. Sanborn of Franklin, Aaron Whittemore of Pembroke, Nehemiah G. Ordway of Warner, Nathan C. Jameson of Antrim, Frederick Smyth, James F. Briggs, Charles H. Bartlett and Nathan Parker of Manchester, Charles G. Smith of Mont Vernon, George A. Ramsdell and Cornelius J. Dearborn of Nashua, Albert S. Scott and Ezra M. Smith of Peterboro, John M. Parker of Fitzwilliam, Daniel W. Bill of Gilsum, Charles J. Amidon of Hinsdale, Francis A. Faulkner and Silas Hardy of Keene, John Q. Jones of Marlow, John S. Walker of Claremont, Chester Pike of Cornish, Levi W. Barton and Dexter Richards of Newport, Daniel N. Adams of Springfield, William C. Sturoc of Sunapee, John G. Sinclair of Bethlehem, George W. Murray of Canaan, Samuel B. Page of Haverhill, John L. Spring of Lebanon, Michael M. Stevens of Lisbon, Joseph Burrows and Nathan H. Weeks of Plymouth, George F. Putnam of Warren, Jeremiah Blodgett of Wentworth, Hazen Bedel of Colebrook, Nathan R. Perkins of Jefferson, Jacob Benton and William Burns of Lancaster.

The convention met Wednesday, December 6, and adjourned Saturday, the 16th.

During this time the Constitution was taken up and consid-

ered by article and section, consecutively in committee of the whole, and such amendments as were agreed upon referred to the appropriate committees to be put in proper form for final adoption. Of these committees there were four, on the following subjects:

1. The Bill of Rights, the Executive Department and the Religious Test.
2. The Legislative Department.
3. The Judicial Department.
4. Future Mode of Amending the Constitution and Miscellaneous Matters.

Each committee consisted of twenty members, two from each county, and Mr. Bingham was assigned to the chairmanship of the most important of all, that on Legislative Department, whose membership, aside from himself, included Johnson of Enfield, Healey of Stratham, Clarke of Atkinson, Smith of Strafford, Burleigh of Somersworth, Whipple of Laconia, Cole of Gilford, Pitman of Bartlett, Hubbard of Tamworth, Flanders of Wilmot, Colby of New London, Smith of Mont Vernon, Briggs of Manchester, Bemis of Harrisville, Albee of Winchester, Adams of Springfield, Pike of Cornish, Bedel of Colebrook and Brown of Whitefield.

Mr. Bingham was the first member called to the chair to preside over the deliberations of the convention in committee of the whole. He was also in the chair when, near the close of the session, a resolution of thanks to President Clark was introduced by Mr. Frink of Greenland. As chairman of one of the important committees he was particularly busy throughout the session, but he was not active in debate, and was heard on few occasions. He vigorously opposed a proposition to so amend the Constitution as to require the support of ten members in order to render effective a call for the yeas and nays in the House of Representatives, and the proposition was defeated. He earnestly supported a resolution introduced by Samuel P. Jackson of Manchester, providing for minority representation through the adoption of the cumulative voting system whenever three or more officers of the same grade were to be voted for. He characterized the measure as the most important that could

come before the convention, going on to illustrate by reference to the choice of members of the Legislature, showing that the minority in any town or ward, where by resort to this system they could insure the election of one or more representatives, would be led, almost invariably, to nominate the very ablest men they could put in the field, and the result would be that the majority would be practically driven to take a similar course; and thus the general standing of the House would be vastly improved. The resolution failed to pass, however, a yea and nay vote, demanded by Mr. Bingham, showing 95 yeas to 215 nays. It may be noted that party lines had nothing to do with the division, some of the strongest Republicans voting in the affirmative and many prominent Democrats in the negative.

This convention submitted thirteen amendments, in all, to the people, to be voted upon at the next March election, of which all but two were ratified by the requisite two-thirds vote, and those two — striking the word "Protestant" from the Bill of Rights, and prohibiting removals from office for political reasons — barely failed. The most important ones adopted were those increasing the membership of the Senate from twelve to twenty-four, reducing that of the House by establishing a population basis of representation with a requirement of 600 inhabitants for a single representative and 1200 additional for each additional representative, making elections biennial instead of annual and legislative sessions the same, changing the time of the election from March to November, and abolishing the religious test as a qualification for office.

ADDRESSES.

[In the following pages are presented various public addresses, memorial tributes, etc., prepared and delivered by Mr. Bingham at different times and occasions during the last thirty years of his life.]

THE RESPONSIBILITY FOR AND THE INEVITABLE CONSEQUENCES OF THE GENERAL DISFRANCHISEMENT OF THE SOUTHERN WHITES AND THE INDISCRIMINATE AND PREMATURE ENFRANCHISEMENT OF THE SOUTHERN BLACKS.

ADDRESS AT CONCORD, N. H., AS PRESIDENT OF THE DEMOCRATIC STATE CONVENTION, JANUARY 5, 1870.

Gentlemen of the Convention:

I thank you for this mark of your confidence, although I undertake with much hesitation to preside over your deliberations upon the present occasion.

We are here today as the representatives of the Democratic party—a party as old as the Nation—a party which administered the government for more than half a century, and during all that time guarded well the Constitution, secured to the people the full and perfect enjoyment of civil liberty, and gave to the country a greater progress and a larger material prosperity than what has fallen, in any age of the world, to the lot of any other country under Heaven. We are here to renew our vows of allegiance to Democratic principles, and to put in nomination candidates to be supported in the approaching state election. We are here to appeal once more to the people—to ask them to look at the sad and sorrowful condition of the country under Radical rule, and to contrast the same with the former happy condition of the country when its government was administered by a law-abiding, constitution-loving, patriotic party.

Under Radical rule the land has been scourged with a Civil

War at a cost of blood and treasure without parallel in the history of the world; under Radical rule we have been plunged in a sea of debt which is shoreless, and of depth unfathomable. A huge moneyed power has been created, compared to which the old United States Bank, that perished beneath the iron heel of Andrew Jackson, was an insignificant affair. A most unjust, unequal and iniquitous system of taxation has been imposed on the people, whereby the rich are growing richer and the poor poorer. The capitalists are feasting and fattening and gloating over their fast accumulating hoards, while the laboring masses are being pinched harder and harder every day.

One pillar after another of the Constitution is being battered down; states are abolished, put under military rule, reconstructed and then abolished again; courts are suspended, ignored, defied, summarily ousted from their jurisdictions. A Radical, usurping, omnipotent Congress has seized all the powers of the government, and tyrannizes with absolute sway over states and over the people. For the purpose of so degrading the masses of the people that they will tolerate Radical slavery, they have been put either on equality with or beneath the Negro—an inferior race who do not possess the seeds of progress, and who are barbarous by nature. Because the Radical can control the negro, and make him carry ballots as his old master made him carry spades, he can be relied upon to vote the Radical ticket; therefore he is loyal and must be enfranchised. But because the white cannot be relied upon to vote the Radical ticket, therefore he is disloyal and must be disfranchised. To perpetuate Radical supremacy, the ignorant, savage negro is made the political master of the educated, civilized white man. To perpetuate Radical supremacy, the heathenism and cannibalism of Africa are exalted above the Christianity and civilization of Europe and America.

We are told by Radical philosophers, I believe, that the negro is inferior because he never had a chance to be otherwise. If you would know what the negro is, what his capabilities are as a governing power, what he would do if he had a chance, you must go to the shores of Guinea, and into the interior of Africa, where the negro has had all the chances there are—where he

has held undisputed sway since the world began. There you will find the negro today what he always has been, what he always will be when left to himself, an unmitigated savage, living like the gorilla, the monkey and the wild animals by which he is surrounded, upon the spontaneous productions of the soil. The only thing that remains to be done to complete the overthrow of the republic and to inaugurate an imperial, consolidated government is to secure the ratification by the people of what has been done, and the completion of what is now well nigh finished.

The steady front presented by the Democratic party has retarded the work of overthrowing our free instituions, and to them is the nation indebted for having a foothold left whereby the people now, if they will, may reëstablish the Constitution and regain their lost liberty. The questions between the political parties are narrowing down so that he who runs may read. The questions are upon the ratification of the works of Radicalism. Shall they be endorsed and free government abolished? Or shall they be repudiated?

These Radicals talk about peace — they mean no such thing; they know that peace to this country — real, genuine peace — is death to them. This Radical party was born of the very causes that produced the late rebellion; was nursed and grew fat upon the war, and has since kept itself in existence by tearing open the bloody gashes made by the war. There can be no peace, no restored prosperity, no union, no safety for our liberties or security for our dearest rights, so long as Radicalism rules the nation.

We look to the next presidential election for the consummation of our relief. In the meantime we must be getting ready for the momentous struggle. New Hampshire can do something. She must and will do something. Her glorious past political history rises from out our memory before our eyes and reproaches us with the alarming political degeneracy of these days. The shades of New Hampshire's illustrious dead are continually beckoning us forward in the path of duty. Long enough already have we suffered the land of Stark, of Woodbury, of Atherton and of the Pierces to be dominated over by that party which stole the

power in the first place by seducing men in the night time into dark places, and there filling them with false alarms, and then binding them by oaths to work in secrecy and darkness, and which has maintained possession of the power so won by outrages upon the Constitution, by bribery, by force, by fraud upon the ballot-box, and by wholesale corruption generally. The cup of Radical iniquity is full to the brim. It must be the case, as surely as there is a just God in Heaven, that the day of retribution draweth nigh—that the day of national emancipation from the thraldom of Radical slavery is at hand. It is only necessary that the great Democratic party should keep its heart, should hold on to its principles, its integrity and its pluck, that it should never say die.

Gentlemen, let us never give up the ship. Let us cling to the Democratic party as the sole remaining guardian of the Constituion of our beloved country — as the only hope whereby civil liberty can be restored to these oppressed and suffering states.

AMNESTY AND RESTORATION FOR THE SOUTH: PEACE AND RECONCILIATION BETWEEN THE SECTIONS.[1]

AN ADDRESS ON TAKING THE CHAIR AS PRESIDENT OF THE DEMOCRATIC STATE CONVENTION, AT CONCORD, SEPTEMBER 11, 1872.

Gentlemen of the Convention:

Once more we are met face to face by the responsibility of choosing a president of the United States. This election occurs under circumstances more than ordinarily critical. What is now done necessarily must make a permanent impression on the future of this government, and give a lasting shape to its policy.

The ideas and principles that have been molten in the red hot crucible of revolution, are now taking the form into which they are about to harden and thereafterwards endure. And now, when the transmission process to which our political institutions have been subjected is well nigh completed, it is of the utmost

[1] This address was printed in a broadside and published as a campaign document.

importance that the policy of the government should be put on the right basis.

The preservation of liberty and of self-government, imperatively demands that a clear-headed statesman, of broad views and of downright old-fashioned honesty, be put to the helm of the Ship of State.

For such a statesman our country at this time calls, and calls most loudly. Where is he? Most certainly it is not he that lives at Long Branch in the midst of dogs, horses and cigars and brandy punches in summer, and who winters in about the same style at the White House. Nobody will or can claim it is Ulysses S. Grant. Every intelligent man and woman in all this broad land, without distinction of party, knows that Ulysses S. Grant is not fit to be president of the United States.

At the same time, everybody knows that a most corrupt, unscrupulous and powerful ring has taken possession of this government, and in the name of Ulysses Grant are running its machinery, stealing from its treasury and prostituting all its powers to the ignoble business of reëlecting themselves. Every conceivable form of abuse which unlimited fraud and corruption can devise crops out everywhere in the management of the business of the government. Frauds enough to damn forty administrations to eternal infamy have been unearthed and published to the world, yet no one doubts that the great body of misdoings of this administration remains to be hereafter told.

So strong is the popular conviction of the unfitness of the present incumbent of the presidential office for the position he holds, and of the dangerous character of the corrupt ring by whom he is controlled, that it has found expression in the adage which is in everybody's mouth, "Anything to beat Grant." Patriotic men, irrespective of old party associations, animated by the desire to save their country from the dangers which threaten its liberties and from the overwhelming and demoralizing corruptions which are sapping the very foundations of public virtue, have attempted to unite all the elements of opposition in one grand effort to change the administration.

The first great step in this direction was taken at Cincinnati, in May last, by a Republican convention assembled from all

sections of the country and under the guidance of the oldest, the ablest, the best and the most influential leaders of that party.

That convention presented Horace Greeley of New York as the candidate for president, for whose election the people might rally in order to save themselves from the appalling calamities which the reëlection of Ulysses S. Grant too plainly threatens.

A platform was adopted, pledging amnesty and restoration to the South and peace and reconciliation between the discordant sections of the country—insisting upon local self-government and the reserved rights of the states, upon the limitation of federal authority to the exercise of its constitutional powers, the supremacy of the civil over the military authority, and freedom of person under the protection of the writ of *habeas corpus,* denouncing the manifold abuses in the civil service of the government and alleging the same to be a mere instrument of partisan tyranny and personal ambition, and an object of selfish greed, and denouncing it as a scandal and reproach upon free institutions, and as breeding a demoralization dangerous to the perpetuity of free institutions, and pledging thorough reforms in the civil service, and affirming that honesty, capacity and fidelity constitute the only valid claim to public employment. In short, the Cincinnati platform embodies, in words most fit and proper, the old Jeffersonian theory of administering our government, under the practical application of which in other days this country enjoyed freedom so securely and experienced a degree of prosperity without a parallel in the history of the world.

Mr. Greeley signified his acceptance of the nomination and the platform by a letter of surpassing ability, by a letter that will go down to posterity as a part of the history of the times, and which, as a political document, has not been outdone by any similar emanation from any of the great statesmen of America.

In this letter he endorses the platform, and expounds and approves its principles in language so clear, earnest and able, that no one who reads it can doubt that his whole heart is in it, and that he will stand by it to the last.

On the 9th day of July the Democracy of the United States assembled at Baltimore, and in a convention in which every state

and every territory was represented, nominated Horace Greeley for their candidate for the presidency, and adopted the Cincinnati platform as their platform, with a unanimity and an enthusiasm seldom if ever before equalled in the history of Democratic conventions, and this nomination Mr. Greeley has also accepted.

The office holders, the cormorants that feed upon the public treasury, and the rings who seeks to run the government so as to secure their own selfish ends at the expense of the country, had previously holden their convention at Philadelphia and had nominated General Grant for reëlection; so that when the Baltimore convention had spoken, the issues now about to be tried by the whole country were made up and presented.

Either General Grant or Horace Greeley will be the next president of the United States. As to which it shall be, depends upon the firmness and virtue of the people. In reference to this matter a weighty responsibility rests upon each individual citizen. On the one side is arrayed the power and patronage of the government with its drilled cohorts of office-holders, ever ready to bribe the mercenary by plundering the public treasury, and to overawe the weak by federal bayonets, and a tyrannical abuse of arbitrary power, aided by the numerous associations and rings of men who have combined under the protection of this administration for the purpose of unduly enriching themselves by robbing the producing and toiling masses of their fellow countrymen.

On the other hand, all the good, the honest, the patriotic, without reference to former party associations, all of those who seek the perpetuity of republican institutions and an honest administration of the government, have united in the support of Horace Greeley.

No man who has the responsibility of an American citizen resting upon him, who has any sense of accountability for what he does, or forbears to do, can afford to remain passive in the great struggle which is at hand, and particularly no Democrat who has stood firm in the dark years that have lately passed over us, when the path of duty has not always been plain, can fail, now, to heed the call which his country makes. We are all

called upon to choose between an administration that is rapidly undermining the foundations of freedom and local self-government, and marching upon the double quick toward centralization and a consolidated empire with slavery for us all, and an administration that will restore to the whole country its free institutions with liberty and plenty for us all.

The Democracy of the whole Union have solemnly committed themselves to the support of Horace Greeley, but the obligation of fealty to his party thus placed upon every Democrat is but a small part of the incentive which animates the bosoms of all Democrats who comprehend the situation, and the magnitude of the issues involved.

I have an abiding faith in the Democracy. It is a party of principle and a patriotic party. Wherever, in the past, the success of their principles and the good of the country has required them to discard prejudice, to ignore their likes and dislikes of men who were honest and capable, they have done it. I believe they will do it now.

I know that we have fought Horace Greeley in the past upon the issues which then existed, and in reference to which he differed from us. Today those issues no longer exist. The most notable of those issues was the slavery question, and it terminated when the negro was emancipated and elevated to full political equality with the white race, and this position was secured to him by guarantees in the fundamental law.

The negro, today, in all our broad land is free, absolutely "lord of himself." I do not say that such dominion over himself in the end will prove to be to him literally "a heritage of woe," but I say that the political equality of the negro with the white man is made secure by the Constitution. No matter whether we regard the measure wise or unwise, it is established, and we must acquiesce therein. Henceforth the negro is a citizen, endowed with all the rights of citizenship, including the right of suffrage, and he cannot again be reduced to slavery until corruption and negligence shall cause us to relax that eternal vigilance which is the price of liberty, and fasten upon both races a common slavery. Hereafter the political condition of the two races must remain the same, and the miserable demagogue

who would engender antagonism between them is the enemy of both, more particularly of the weaker whom he pretends to serve. Negro slavery, and the questions growing out of it, have been definitely disposed of, and are no longer an element in American politics.

On the living questions of the day, Horace Greeley represents the ideas of the Democracy. He represents emphatically the idea of reconciliation with the South, and the South believes in him; and if he be elected president, peace will have come at last to that war-scourged, carpet-bag-ridden and wofully impoverished section of our common country, and fertile fields and noble rivers now in solitude will be alive with profitable productions and business, and the hard-taxed resources of the nation be strengthened to bear the heavy load of debt wherewith they are burdened.

Horace Greeley represents the idea of a Republican form of government with free institutions, and an administration restrained by the limitations of the Constitution; while the name of Grant is darkened by the shadows of an approaching empire, by encroachments already illegally made upon the civil authority, and by surrounding himself at the capitol with the air and paraphernalia of a military camp. Horace Greeley will do, and stands pledged to do, if elected, just what the Democracy would require one of their life-long leaders to do were he elected to the presidency. Horace Greeley agrees with us in principle. He is honest. Everybody, even his worst enemies, concedes that. He is capable; we have seen and felt the ponderous battle axe that he swung in the political fights of other days. Horace Greeley, then, embodies what we want in a candidate — tried by the usual tests we apply to our candidates, he answers them all. He represents our ideas. He is honest and he is capable.

In conclusion, I desire to appeal to each individual Democrat in New Hampshire, and adjure him not to be found wanting in this election when the hour of trial shall come. The Democracy of this state have stood shoulder to shoulder, undaunted through long years of defeat, sustained by principle and by love of country, with an unflinching steadiness and a resolute determination seldom if ever equalled by the masses of any other

state or country. And now while a returning sense of the value of free institutions seems to be awakening in the hearts of our countrymen, and the hosts that are gathering for the fight are promising a glorious victory to our most righteous cause, let not one of the *Old Guard* cower or shrink from the full discharge of his full duty. But let every Democrat who has a record in the past rise up and gird himself for double work, and enter the contest with the fixed determination that no omission on his part shall disappoint the brilliant hopes that have been kindled, and prevent the redemption of the state, and the deliverance of the Nation.

CENTENNIAL ADDRESS.

Delivered at Littleton, N. H., July 4, 1876.

Fellow Citizens:

One hundred years have passed since the United States of America proclaimed themselves free and independent states. Whatever of confidence, whatever of knowledge, whatever of wisdom, a century of existence as a separate people can give, is now ours. We have had experience. Our government is no longer an untried experiment. What good men only hoped for and believed in theory, one hundred years ago, is today a demonstrated fact. We are entitled to feel — we ought to feel — confidence in the stability of our existing political fabric accordingly as we are warranted in so doing by the lessons of the past, and, I may add, accordingly as the pillars in the structure stand firm or otherwise today. To guide our judgment in these respects we ought to have all the knowledge which a careful study of the history of our country can give. If our republic is to stand, we must get wisdom and be guided by it. An intelligent and an abiding love of country must be revived in the hearts of the people.

All the states of the Union, by a common consent, have selected the present year for an exhibition of themselves on the spot where Independence was born, and the inhabitants of the whole world have been invited to come there and see us and exhibit

themselves also; and so we have at this time a most favorable opportunity for self-examination and for comparing ourselves with the rest of mankind. I think our people everywhere are today disposed to pause a little, and to inquire where they are and whither they are drifting. Such an inquiry necessarily leads to retrospection as to the past, to examination as to the present, and speculation as to the future.

This is well enough as far as it goes; but, if it stops here, what does it signify? We cannot be instructed by merely taking a bird's-eye view of the past; by making a running examination of the present and a wild guess at the future. The past for all practical uses is a sealed book, except to those who study it with care, discrimination, and impartiality. The past enables us to act wisely in the present, to predict correctly as to the future, only when we have learned her lessons fully and fairly. Her wisdom is not for the idler nor the bigot, in either politics or religion.

The true lesson, the real wisdom of the past, can be learned by him only who is both diligent and impartial. Whenever and wherever prejudice, passion, superstition, or fanaticism beclouds the minds of men, they cannot see and understand — they would not, if they could, see and understand the lessons of the past. History, as she portrays the growth and decay of empires, by telling the story of one, repeats the story of the other, so far as the general causes of growth and decay are concerned. Prejudice, passion, superstition, and fanaticism are always blind. Under their influence a people rush wildly along the road, whithersoever their madness impels them. To them, the lessons of the past, the teachings of history, and even the prophetic warnings of sober men in their midst, are nothing. The fury that has seized them must spend itself, must wear itself out, before reason can return; and then, if the ruin is not total, if the damage is not irreparable, slow, toiling industry will gradually bring back again what has been lost. Man as an individual is like men in the aggregate. I may give an exposition of history to a man or to a body of men in accordance with their preconceived opinions, and I shall be sure to be applauded; but, if my exposition happens to be in conflict with the prejudices of my

hearers, I am just as sure of disapproval. In neither case are the real merits of my exposition tried, or any genuine instruction given.

So far, then, as the events of the past are directly connected with the ideas which are now the subject-matter of controversy between political parties, or where the memory of those events is colored according to the partisan bias of each, I despair of being able — I think it would be folly to try — to obtain from such a source, a lesson that would instruct or would be appropriate even on the present occasion. As regards facts accomplished, and as regards principles that have been settled and incorporated into the fundamental law, the direct and legitimate inferences to be derived therefrom are proper to be considered. There is no occasion to go farther. The world is old enough, so that the past opens up a field broad enough for present comment, inquiry, and instruction.

When once attention is turned backward, a vast panorama spreads out before us, and our observation must be general. If anything like a detailed investigation be attempted, the work becomes infinite. We recognize first our connection with the countless generations of humanity that have preceded us, and the links which bind us to them, and them and us to the future. "The thing that hath been, it is that which shall be; and that which is done is that which shall be done: and there is no new thing under the sun."

Those that have preceded us walked the earth as we do, the same air around them, the same sky above them; lived as we live, felt as we feel, and died as we must.

The same sun that broke the night of Chaos, and showed, for the first time, his glories to a new-born world, has ever since continued his ceaseless rounds, and now rolls over our heads as bright and majestic as when he lighted up the morning of creation. Mother Earth gives all the successive generations of humanity the same support, and in their order gives them all a final resting-place in her bosom. Nature is ever changing, yet is she always the same; her rounds are ceaseless, but unvarying; like succeeds like; man succeeds man, as wave succeeds wave on the surface of the sea. These are some of the considerations that

naturally strike our minds at first when we cast our eyes backward upon the past.

Next, in this business of retrospection, our attention is unavoidably directed to the nations and peoples that have arisen, flourished, decayed, and passed out of existence, in regular succession from the beginning of the world to the present time. On the grand panorama of the past, nation succeeds nation as generations of men succeed each other. The general features of the history of these nations and peoples are the same, and in each instance their rise, progress, decay, and final extinction were attended by similar circumstances. They all sprang from small beginnings, grew and prospered while public virtue was maintained, fell into decay as public virtue disappeared, and into final extinction when vice and corruption had obtained full mastery. Such is the brief, yet accurate outline of the annals of the nations and peoples that once were, but have now passed away. In the beginning they were poor, their habits simple. Industry, economy, honesty, and love of country were the rule, and under the practice of these virtues prosperity, wealth, and power were attained, followed by luxury, enervation, corruption, decay, and final dissolution. Obedience to the law, strict observance of the great principles of morality, respect for religion, always characterize a people while laying a foundation and rearing the superstructure of national greatness. The law, the rules of morality and religion, loosen their hold and exercise less and less restraint as corruption creeps in and taints more and more the body politic. Contempt for the law, general immorality, impiety, and infidelity mark the period when decay becomes universal, and indicate, unmistakably indicate, that the end is almost reached. The different systems of government, the different forms of religion, as illustrated by the past, so far as they are wholesome, so far as they have efficacy, rest upon the same great original truths.

A people who are virtuous, and who have laws founded upon reason, and just rulers are sure to be prosperous and happy. Any form of government, with any form of religion, that secures these three conditions, viz., a virtuous people, reasonable laws, and just rulers, answers the end for which government is de-

signed. Any form of religion that restrains the masses of men from vice, and holds them in the paths of virtue, answers the end of religion so far as the body politic and the temporal well-being of a people are concerned. History shows that nations have arisen, practiced all the civic virtues, grown, and flourished under monarchies that were absolute, under monarchies where the will of the sovereign was limited, under aristocracies, and under republics. So, too, have nations arisen and flourished, carrying the arts and sciences and civilization to a high degree of perfection, under each of the forms of religion,— Pagan, Mohammedan, and Christian.

It follows, then, that a government is good only when it is well administered; that the substance of religion — not its mere form — is the conservative element in a state. True piety, genuine reverence for the Deity, devoted patriotism, make a good citizen in any age or in any country, no matter what the form of government or religion may be.

The form of our own government differs from that of any existing people of the world, and is not identical with that of any other people which has existed in the past. The institutions and laws under which we live had their origin far back of our Declaration of Independence. They are the growth of ages. They were born in the forests of Germany, transported from thence by the Angles and Saxons to the Island of Great Britain, and there defended by strong arms, expanded and enlarged by the demands of a growing commerce and civilization, perfected by the wisdom of jurists and statesmen, until the magnificent system, known as the common law, was developed,— until limitations of arbitrary power were so firmly established that constitutional liberty was made secure. Our fathers brought from England to America the common law and the idea of liberty made secure by law. They formed communities wherein their rights were regulated by the common law, and wherein they made the idea of liberty secured by law a living reality, and maintained this state of things during the entire period of their colonial existence. Our Revolutionary fathers were educated in the school of freedom. They knew their rights, and dared to maintain them. They scented tyranny in the distance.

When the British government encroached upon their liberties, they met the first movement, at the threshold, with stern resistance; and when that movement was persisted in, notwithstanding their resistance, they assumed the responsibility of cutting asunder the political bonds that bound them to Great Britain, and of taking the position of a separate people among the nations of the earth. They then published to the world the declaration that has been read here today, announcing that the United States of America were free and independent states. The stubborn valor of the people, guided by wise leadership, made good this declaration; and the separate and independent position of the United States thus assumed, in a doubtful hour and in the face of a future black with impending dangers, was permanently established. Next came the trial, the labor, and the responsiblity of organizing a government that should develop the resources, answer the expectations, and protect the liberties of a free people.

There is no one particular thing as it occurs to me that we can do on this day more appropriate, or more likely to be profitable, than to turn our eyes backward upon the situation of this country at the close of the Revolutionary War. I mean upon the situation at that time as regards the men, the material, and the means then on hand, out of which it was possible to organize future greatness and power, and future security for liberty. I maintain that for such purposes this situation was the most favorable which has ever occurred in the history of the world.

In the first place, consider the vast territory, developed and undeveloped, that was theirs, and a people numbering upwards of three millions, hardy, inured to toil, vigorous, profoundly religious, nurtured in freedom and obedience to the law, well instructed as to the means by which liberty is made secure, jealous of their rights, and prepared to die if necessary for their maintenance.

Next, let us inquire, who were the statesmen? Who were the great popular leaders of that day? They were Washington, Franklin, Adams, Jefferson, Madison, Hamilton, and their illustrious compeers. I maintain that in their foresight, profound

sagacity, and self-denying patriotism, the American statesmen of the Revolutionary period far outmatched their antagonists in the councils of Great Britain, and that to this fact, among other reasons, are to be ascribed the fortunate results of that contest. With such a people, under the guidance of so much patriotic wisdom, with so great a territory wherein to develop themselves, the experiment of self-government was made under circumstances in which the presumptions of success were overwhelming. Failure would seem to have been impossible, and so the fact has turned out to be. A system of government was devised and put into operation, adapted to the then existing institutions, to the wants of a free people, and to making liberty permanently secure. The United States, like the goddess Minerva, sprang into existence and took its stand among the nations of the earth in full panoply. The Revolutionary fathers studied the science of government and understood it. They knew the value of liberty and how to make it secure under the protection of the law.

The evidence of all this is found in the works they did and in the monuments they have left behind them. Under the direction of the statesmen of the Revolution, our career as a separate people was most successfully begun. A development of material prosperity — of everything that makes a people great and powerful — followed with a rapidity of growth entirely without precedent or parallel. And this astonishing growth continued until the Revolutionary fathers were dead, until the men who were associated with the statesmen of the Revolution were dead, and until the lessons, the teachings, and the warnings of Washington, of Jefferson, and of Jackson were dead in the hearts of the people.

I pass over the consideration of the causes that led to the late rebellion and the tremendous civil war that followed. Those events are too recent and too exciting for dispassionate comment at this time. An impartial criticism upon them that shall do exact justice to all parties concerned, must be the work of somebody in the far-off future. I will not stop even to compare the impoverished, tax-ridden condition of the various sections of our common country with what they might have been had there

been no rebellion and civil war. The country has passed through the fearful ordeal; she has crossed the bloody chasm of rebellion and civil war; she is now fairly on the other side, worn, weary, exhausted, but, thank God, at peace. Civil liberty yet retains a foothold, and it lies with ourselves to say whether or not it shall be everywhere restored. We have been taught a most bitter lesson. We are not wise if we do not profit by it. Amid the tramp of soldiers and the clash of arms, we have seen the laws silent, the mouth of Justice dumb. We have seen how easily the liberties of a whole people might be forever lost amidst the throes and convulsions of civil war. All history shows that a free people who value their liberties so lightly that they once let them slip from their grasp and be lost, never recover those lost liberties; they are gone forever. We have abundant reason to be devoutly thankful to Almighty God that it is no worse with us than it is. If the people of this country, North and South, East and West, appreciate their experience for the last twenty years, the sufferings they have had, the dangers they escaped, it will be a hard matter to kindle the flames of another civil war for the next hundred years.

The controversy that has so long existed in relation to the status of the negro has been settled,— settled by constitutional provisions that abolish all distinctions of race or color so far as civil and political rights are concerned.

Scarcely, however, is the negro question disposed of, before we are complicated again by the appearance on our Western coast of some of the representatives of the countless myriads of Asiatic populations. Our Constitution grants the same civil and political rights to men of every race, and freedom of religious opinion to everybody,— to Pagan, Jew, Mohammedan, and Christian alike. Our land is broad enough, our fundamental law is liberal enough, to give a home and protection to men of every race, and to devotees of every form of religion.

Who shall say that the time is far distant when the three great original typical races of mankind, viz., the Caucasian, the Mongolian, and the Negro, shall meet on this continent in the enjoyment of equal civil and political rights, and each, according to his own peculiar talent, contribute to the volume of national

prosperity, until it shall reach a degree of greatness transcending everything that has as yet been dreamed of? I speak not of this as something desirable or otherwise. I speak of it as a possible result towards which we are, or may be, now drifting.

To my mind there are dangers worse than the dangers that have been escaped on account of the negro; worse than any dangers to be apprehended on account of the Mongolians. I refer to the wide-spread corruption that has manifested itself in official life and among the people at their primary elections. Corruption is a corroding sore on the body politic. It disintegrates and consumes, and, unless speedily eradicated, it will destroy the whole fabric. The history of the past shows it to be the forerunner of the final dissolution of nations. Biblical history records the destruction of Sodom and Gomorrah, and the corrupt cities of the Plain, on account of their abominations, by a consuming rain of fire and brimstone; and in our own land, although we may not get the literal fire and brimstone, yet retribution just as certain, destruction just as absolute, will be sure to overtake us except there is a speedy reformation.

Partisan triumphs that are secured by corrupt agencies, shame the victor who has got a capacity susceptible of feeling shame. Such triumphs belong to worthless adventurers, to heartless demagogues, to vile sycophants, to those in whom greed for office and the still more contemptible greed for filthy lucre, has deadened every patriotic emotion. It is difficult to find words severe enough to express the indignation which honest men ought to feel towards the man who lives and thrives upon the destruction of the public virtue. In the words of the dramatic poet upon this subject,—

> "Is there not some chosen curse —
> Some hidden thunder in the stores of heaven
> Red with uncommon wrath to blast the man
> Who owes his greatness to his country's ruin?"

I am admonished that there are many things upon this occasion which must be done, and that I may have already consumed more than my share of the time. I will, therefore, hasten to conclude with an appeal to the young. I would say to the young men, and to the young women, too, that your characters, such

as they are to be hereafter, are now in process of formation. Your present habits of thought and action, whatever they may be, are forming the character by which you will be known while you live and by which you will be remembered when dead. Learn to respect yourselves; and, in order to do that, your conduct must be what the light that is within you—what the conscience approves.

> "To thine own self be true;
> And it must follow, as the night the day,
> Thou canst not then be false to any man."

The idle popularity that vanity courts, and that comes of fawning and flattery, you do not want. It is as worthless as the baubles with which children are pleased. But there is a value in the good name that follows worthy actions; that comes of duties well performed, of grave responsibilities fairly met. If you would learn what your duties and obligations are to your country, go back to the heroic age of America. Study the lessons of patriotism and political wisdom left us by the fathers of the republic. If you would remedy the political degeneracy of these times and restore public virtue, then recall honesty, patriotism, and statesmanship to the front, and re-instate them in the offices of the government. Let integrity and ability combined be the only passport to official station; and then, and not till then, may we expect that the old-time prosperity will be restored, that our country will resume her astonishing march onward and upward towards the fulfillment of her destiny,— a destiny more brilliant than the most sanguine of the fathers ever dreamed,— a destiny, the meridian of whose glory lies far away in the dim future.

ORATION.

DELIVERED BEFORE MARSHAL SANDERS POST, G. A. R., OF LITTLETON, N. H., MAY 31, 1880.

My Friends:

I address you as an organization whose members once served in the armies of the country, at a critical period in its history. You have been thus organized on account of that service. The exercises and ceremonials of this day have been instituted to perpetuate the memory of the eventful times in which that service was rendered; to recall the images and the deeds of your comrades who sank to their last rest on "the bed of honor"; to rekindle within yourselves the old patriotic fire; to contemplate the great and prosperous country, the wise and beneficent government which your labors have contributed to save; and to inquire what can we do to make our future national greatness, freedom and happiness more certain,—what can we do towards holding our people in the right paths, so that the present promises of a glorious national destiny may be realized. In entering upon this work, I find myself embarrassed by the broad field before me, and by the multitude of thoughts that crowd upon the mind and demand expression. Out of the many things that press for consideration, I am in doubt as to what selections ought to be made.

My words must necessarily be few; nor will many words be needed to bring to your minds events indelibly stamped on your memories. A simple recurrence of those memories brings to you lifelike sounds, images and scenes. The first call to arms seems to ring in your ears. The camp, the weary march, the battlefield and all its horrors, the heroes, now dead, who then stood by your sides, pass before the mind's eye, vivid and fresh as the reality itself. At the same time the old emotions come back again; your pulses are quickened and your hearts thrilled; you are ready once more to do and to dare any and all things that duty requires.

The contrast between the quiet of the present hour and the restless times in which the events that we commemorate occurred is very great. Amid the peace and security in which we now repose we need the harsh pictures, that are burned on our memories, to enable us to realize the excitement, the anxiety and the terror, which then filled all hearts.

A civil war of enormous proportions, waged for the avowed purpose of disrupting the Union and destroying the government of our fathers, was plucking up confidence by the roots and scattering dismay and disorder everywhere.

The ordinary safeguards of the law for the protection of life, liberty and property was disregarded. The bonds of society were loosened. Credit was gone and uncertainty and distrust were universal. Every man looked only to himself for help as he despairingly beheld law, order and the public safety, tumbling into one common ruin. It was in that fearful hour, amid the crash of falling institutions and the bursting of the pent up fury of a revolutionary storm, which had been gathering for years, that the agonizing cry for help went abroad over the land. Nor was that cry unheard and without response. You heard it and responded. Brave men and strong men responded. From all quarters the fiery energy and fervor of youth and the mature strength of manhood were put forth to save the governmental fabric at the very moment when it was shaking and toppling from its foundation, and when the old order of things, all the accumulations of the civilization of the past were apparently about to be lost. In the fearful struggle that followed, gigantic armies, fully armed, equipped and trained for the work of death, for the first time on American soil, met in deadly conflict. The sufferings and hardships you then endured and the perils you then encountered you will never forget, while life and memory remain. Lost limbs and scarred bodies furnish for many of you indisputable evidence that you have met face to face the terrible realities of war.

It will not be worth while to trace the varying and fluctuating fortunes of the long contest. Its incidents are familiar to all. Time and space would altogether fail us should we attempt to make even passing mention of the many heroes who distinguished

themselves on the numerous battlefields of the rebellion. It is enough to say that the reputation of the men of New Hampshire, acquired in previous wars, for steady, determined, unflinching bravery, remains undimmed; that the sons of New Hampshire repeated on the bloody fields of Gettysburg, Antietam and Chancellorsville, what their fathers had done at Bunker Hill, at Bennington, at Monmouth, at Yorktown and at Lundy's Lane — the foremost in the assault, the last to retire. Were I to particularize, I could do so only for a few, and where *all* did so well, that would be unjust.

The cruel war dragged its weary length along through sorrowful years to its close; but it was a triumphant close. The final result was glorious. The armies of the rebellion were everywhere subdued. Submission was perfect and universal. The cause of the government was fully vindicated. The Union was saved and the victorious soldier permitted to return to his home, there to wear in peace the laurels which his valor had won.

I will not comment, except in a general way, on the work of reconstruction which the rebellion and its results had rendered inevitable. Wise statesmanship, coöperating with the ameliorating influences of time and mutual forgiveness of both real and imaginary wrongs, was needed for the accomplishment of that work.

In view of the situation of affairs at the close of the rebellion, I regard it as a matter of sincere congratulation among all patriots, and among all the friends and well wishers of this country, that things are not worse.

On the part of the victorious North, exasperated by the stubborn resistance of its fallen foe, and smarting with its great losses, there was in the very flush of triumph, a larger moderation, a greater forbearance and more genuine commiseration over the distress of its humbled antagonist than is ordinarily accorded by the victor to the vanquished.

On the part of the conquered, humiliated, disheartened, but still alienated South, there was a more thorough submission and a stronger disposition to accept the situation and to return to their old position and duties in the Union manifested, than we should naturally expect to be shown by subjugated rebels. To

this there have been exceptions in the North and in the South. But, on the whole, it is plain that in both sections, since the war closed, the general tendency of the public mind has been towards favoring the old Union, under the Constitution, modified only by the changed circumstances of the country and the amendments formally and legally made.

I will not now further remark upon the work of reconstruction and will only utter a word of gratitude to the Almighty Ruler of the universe, in which I am sure all can join, that it is as well with us as it is,— that the angel of Peace, with healing on her wings, has come to abide with us permanently; that Plenty and Prosperity sit smiling everywhere all over our broad land; that assurance is confidently felt that the Union of our fathers, in substance as well as in form, has been saved and will endure; that the federal government is once more to be administered by the exercise of powers within the limitations of the Constitution; that liberty protected by law is to be in reality secured for all the inhabitants of the land, not only for the black man but for the white man also, without distinction of race or color; that the Ship of State has weathered the storm, has safely passed through the boiling whirlpool of revolution, has righted herself, and with her timbers battered and bruised, but still sound and strong, with sails repaired and spread to the breeze, is once more with favoring gales on the broad open sea.

It is to commemorate your services on the battlefield in behalf of the Union, to keep alive the memory of the noble but "unreturning brave," who gave their lives in behalf of the same cause, that the services and ceremonials of this day have been instituted.

In this connection it may be pertinently inquired — Why is it worth while to preserve the memory of a successful contest, waged for the salvation of the Federal Union and the preservation of the institutions of our fathers? What is the value of the Federal Union? What detriment would its loss entail upon us which could justify such sacrifices for its maintenance?

The answer to these questions necessarily involves the consideration of the history of the country, the origin, special purposes and the peculiar construction of the government, and the practical operation of that government as shown by actual trial,

in securing the prosperity, happiness and freedom of the people. Volumes might be filled in the consideration of these matters and the subject still remain unexhausted. I shall only glance at them in the hope that it may awaken in your minds a spirit of inquiry, and lead to a deeper, more thorough and enlightened comprehension of the priceless value of our free government, and of the reasons why no possible sacrifices can be regarded as too great for a people to make for the maintenance of such a government.

This country had its beginning in the planting of thirteen distinct colonies upon the Atlantic shore of the North American continent. These colonies grew up distinct and separate and in process of time, having dissolved their allegiance to the parent country, and having assumed the attitude of free and independent states, they formed, for mutual protection in certain specified particulars, a Union, while in all other respects they all retained their original independence.

Ultimately this Union took the form and substance in accordance with and under the terms of the Federal Constitution. By that Constitution, certain powers therein enumerated, affecting the general welfare and essential to the common defense, were delegated to the Federal government, and all powers not thus delegated were reserved to the states, respectively, or to the people. By the Federal Constitution the exclusive control of all local and domestic affairs is left to the states.

From the adoption of this Constitution in 1789 to the breaking out of the recent rebellion in 1861, a period of more than seventy years, the country enjoyed a degree of prosperity unexampled in the history of the world as it respects the astonishing increase of its population, the rapid accumulation of its wealth, the vast peaceful accessions to its territory and, in short, as it respects all matters of material aggrandizement and the building-up and development of everything that makes a people great, grand and glorious.

At the same time we were free, perfectly free, to go or to come whensoever and wheresoever we listed, provided only that we trespassed not on our neighbor. The rebellion imperiled,

yea, threatened with absolute annihilation, the government under which all these blessings had come to us and seemed about to precipitate into one common ruin all that we had inherited,—all that we had respected, revered, and loved in the work of our fathers, and, in the work of our own hands, all that we had done for ourselves and those that might come after us.

I will not stop to speak of the angry controversies, the noisy, unreasoning, and reckless partisanship, that preceded the actual clash of arms and shock of battle. I will not stop to say how much or how little was done on the one side or the other to provoke a free, prosperous and enlightened people to a degree of madness sufficient to induce them to plunge themselves into all the horrors of a civil war, involving risks so hazardous and consequences, in the most favorable event, so terrible.

But I will say that, in the North and in the South, the warning voices of Washington, of Jefferson, of Jackson and of all the great founders and guardians of the Union, to beware of geographical parties and of the arrayal of one section of the country against the other, were no longer heard or regarded. In addition to this, it is enough for me to say, that when the laws protecting liberty were everywhere ignored; that when the governmental fabric and all institutions dependent thereon were dissolving like snows before an April sun, and the agonizing cry for help went abroad over the land, you left the industries of your respective callings, and came from your offices, your counting-rooms, your work-shops and farms, and took your places under the starry folds of the old flag, determined to meet and roll back the tide of revolution or to die with hearts resolved and with your faces to the foe.

In that dread hour the arm of authority was paralyzed. The hoarse mutterings of the mob, like distant thunder, were the only sounds that could be heard. The lurid glare of the kindling torches of rebellion was the only light that shone on the darkened land. The whole heavens were black with clouds of impenetrable darkness. Strong men wept.

> "A child will weep at a bramble's smart,
> A maid to see her Sparrow part,
> A stripling for a woman's heart,
> But woe awaits a country when
> She sees the tears of bearded men."

It is the immense value of what was saved from extreme peril by the firmness and valor of yourselves and your associates, that has made for you and for them a record which shall grow brighter and brighter with increasing years, so long as heroic deeds, performed in the maintenance of liberty and free institutions, shall command the admiration and respect of mankind. It is to commemorate this great service that a day has been set apart to stand alongside of the anniversary of our National Independence, a monument to perpetuate the memory of the great historical events in which you acted a part. The men of the future will be reminded by the recurrence of these anniversaries, of what it costs to establish, and what it costs to maintain, free institutions. Hereafter, as the stream of time rolls on and events now recent fade away into the shadowy past, both anniversaries will remain, and, with each recurrence, will bring before the eyes of the American people the heroic age in their history.

In this connection the inquiry naturally arises whether or not the fundamental law has been changed in consequence of the war against rebellion, and, if changed thereby, what changes has it suffered? It will be found on investigation that the only change of the Constitution which has been made, is the addition thereto of the 13th, 14th and 15th amendments. By those amendments slavery is prohibited and full civil and political rights conferred upon men of the African race. In all other respects the Constitution stands as it was ordained by our fathers. The federal government and the governments of the states now hold, under the fundamental law, the same relations to each other that they have held ever since the adoption of the Federal Constitution. Each, in its appropriate sphere, is independent of the other. In the exercise of the powers granted it the federal government is supreme. In the exercise of the powers reserved to them, the states are sovereign. The same instrument which grants to the general government its powers, reserves to the states their powers. The Constitution of the United States secures to the federal government its granted powers,—to the states, respectively, their reserved powers. By that instrument "an indissoluble Union of states that are indestructible" is established. By that instrument the sov-

ereign powers incident to an independent nation are divided between the Union and the states, *each taking a distinct part thereof, to be separately and independently exercised;* so that when we use the term "national government," in its true sense, as applied to the government of the United States, we mean the government ordained and established by the Constitution of the United States; we mean a government, a portion of whose powers are absolutely vested in the Federal Union and the remainder just as absolutely vested in the states.

The executive, the legislative and the judicial departments of the Federal Union, and of each and every state, are bound and sworn to support and uphold the Constitution of the United States as the supreme law of the land; and they are bound and sworn to support and uphold it, just the same, in respect to the powers granted by it to the federal government and in respect to the powers reserved by it to the states respectively, or to the people. Every good citizen of the Republic, whatever his party associations or affiliations may be, will yield implicit obedience to its fundamental law and will maintain and uphold the federal and state governments respectively, each in its appropriate sphere as part of one and the same system. Any encroachments made by either the federal or state government upon the legitimate powers of the other are alike treasonable and revolutionary. The same tie that binds us to the maintenance of the Union, binds us to the maintenance of the reserved rights of the states. The Union could not exist without the states and the destruction of either would be revolution and the overthrow of the government.

The recent amendments to the Constitution, of which I have spoken, making the negro the equal of the white man in civil and political rights, are now a part of the fundamental law, binding upon the nation, upon the federal and the several state governments, and upon the people. The white man and the negro now stand alike before the law, as it respects the right of suffrage and the enjoyment of life, liberty and the pursuit of happiness.

These amendments were adopted as a settlement of the controversy about slavery, which had been the occasion of constant

and long continued irritation between the North and the South, and finally had culminated in one of the most bloody, expensive and desolating civil wars known to history. This settlement was made that the peace which had come to us at the close of the war might stay and be permanent; that the institutions planted by Washington and his illustrious associates might not die, but live; that liberty protected by law might be enjoyed throughout the land by all the inhabitants thereof; that the love of the Union and respect for the rights of the states might be restored to the hearts of the people everywhere. It was not merely on his own account that the negro was enfranchised, but he was enfranchised that thereby a great bone of contention might be removed and the liberty of the white man also be made secure. In this view these amendments may well be regarded as possessing a special sanctity; as a pledge for peace; as a pledge for liberty, under the Constitution, to both the white man and the black man. For these reasons, whatever may be the capacity of the negro for self-government and however unwisely he may exercise the privilege of an elector, it does not follow but that the adoption of the 13th, 14th and 15th amendments was dictated by sound policy. It is certain that the reasons for the elevation of the negro to full civil and political equality with the white race outweighed all considerations to the contrary and the thing was done. He has been placed upon the same level with his white brother with respect to civil and political rights. He has the right to vote and to be elevated by the votes of the people to any office within their gift. He may be a juror, a judge, a minister plenipotentiary to a foreign nation, whenever he develops abilities and integrity sufficient to warrant the appointing power in placing him in such positions. But if he fails to receive a majority of the votes of his fellow citizens for an elective office, or if he is unfit for a juror, or a judge, or a foreign minister, then, like his white brother under like circumstances, he must abide at home and be content with the honors of a private station. The negro is free, master of himself; he must take care of himself and look no longer for special protection,— only for the general protection which the law gives every citizen. The law gives him the same rights and privileges that

it gives the white man, not greater. The shackles have been struck from his limbs. All that freedom, education, civilization and Christianity can do for him to sharpen his intellect and strengthen his moral sense is now being done. If the negro, as his own master, shall prove to be industrious; if he shall avail himself of the extraordinary advantages by which he is surrounded and become intelligent, honest, learned and enlightened; shall prove himself capable of self-government, and shall hereafter, in due time, show himself a wise and incorruptible elector, a scholar, a philosopher and a statesman, then, indeed, shall we have occasion to bless those amendments as not only giving peace and securing civil liberty to a great people, but as emancipating and elevating a down-trodden, unhappy race from the bonds of slavery to the happy condition of free, self-governing, prosperous and enlightened citizens of the great republic.

On the other hand, if the friends of the negro are disappointed and his attempt at self-government shall prove a failure, still, the wisdom of the amendments is not thereby impeached. Those amendments settle a most ruinous controversy and were oil on the troubled waters. They were a necessity. It made no difference whether, as a result of freedom, the negro went up or down; free he must be and a voter also. Upon the plane of equality he must compete with his white brother for a livelihood and for distinction, the same air around them, the same sky above them, and the same law protecting them. Should this competition be too sharp for the intellect and moral sense of the negro, now, for the first time in the history of the African race subjected to such a trial, there is no help for it. He must pass the ordeal and be content with what his own capabilities and efforts can accomplish. He has now full opportunity to be himself and to do all that he is capable of doing. What he is not, he never can be; what he is not capable of doing, he never can do. He, like the rest of mankind, must submit to the inevitable. The welfare of the negro, his wants and wishes, had little to do with his emancipation. He was a merely passive element of the body politic. The people in their sovereign capacity made him free, not on his own account, but that an ever recurring source of trouble might be eliminated from the politics of the

country,—that alleged wrongs might no longer furnish material for demagogues and michief makers with which to do their work.

Animated by the spirit in which these amendments were adopted, all good citizens will uphold and maintain them as essential parts of the Constitution. Let the privileges and the rights of freemen be freely accorded our fellow citizens of the African race, and in the most perfect good faith, whether or not they as a race are benefitted much therby; because the welfare of the whole people, the preservation of the peace of the country, the security of the Union and of free government are all dependent thereon.

I need not call upon you to uphold and maintain the great charter of American liberty, the Constitution of your country. In darker days than these and when the path of duty was not so plain as now, you found out what your duty was and you dared to do it. In your maturer age, in the discharge of your duties as citizens, you will not fail to seek to preserve and perpetuate what your youthful valor plucked from the very jaws of destruction.

There are those from whom we sometimes hear in these days, in muttered phrase, and in subdued tones, something about a "strong government." A strong government! What do they mean? Do they mean a government strong in the love and patriotic devotion of the people, and upheld by freemen? If so, *Amen.* But, do they mean otherwise? Do they mean a strong government such as Great Britain has wielded over Ireland; such as the Autocrat of Russia has wielded over Poland and today wields over all his subjects? Do they mean a government in which all the rulers are tyrants and the people slaves? A government hated by the people, abhorred by all patriots and upheld only by mercenary swords and bayonets? If such be the government which these advocates of a "strong government" would substitute for the free and beneficent government which we now enjoy, the Lord deliver us from out of their hands. They are bad men — very bad men. If such a government is formed, they must contemplate making themselves the tyrants and the miserable people whom they would delude *their slaves.* No insidious wiles or deceptive pretences can ever induce you to

consent to the imposition of such a government on the American people. As soldiers you have served with honor, and as citizens you can never forget the obligations of citizenship.

It is not alone on the battlefield, amid the booming of cannon, the rattle of musketry, and the groans of the dying that brave work is done. We live and do our duty only by struggling constantly against opposing forces. He who daily encounters and overcomes his appetites and his passions, who dares always to obey the voice of reason, and who, in defiance of the mob and self-constituted tyrants, keeps ever the even tenor of his ways, *is a hero.*

In the military service when the bugle sounded you took, without hesitation and without question, your posts, prepared to meet any foe or danger that might be near. Your organization must bring to mind the lessons taught you in camp; lessons that are needed in the peaceful walks of life, as well as in the tented field.

A people capable of self-government and of maintaining free institutions must always possess that steady courage, that unflinching fortitude, which meets and endures all things whenever and wherever duty calls. The strong men, the truly great men, in a free country, are those who do their duty fearlessly, conscientiously, under all circumstances and upon all occasions. Upon the shoulders of such men and upon the shoulders of such men only, can the pillars of a free state rest with safety. In a free country those who do not consider, who do not study and heed, the obligations of duty, and who aim only at self aggrandizement, are dead weights hung to the body politic, all the while pulling it downward towards destruction.

There is more that might be said, and much more perhaps that ought to be said, showing that freedom can be maintained permanently, only by a sincere, earnest, self-sacrificing, patriotic people; but time flies and I will close by an appeal to you to stand by your record, to hold out as you began.

Having devoted some of the best years of your lives to the hardships, privations and dangers of a soldier's life, to save the free institutions of your country from impending ruin, and by your valor having rescued those institutions from their imminent

peril and again made them stand firm on their old foundations, it is impossible that you should ever become indifferent to the welfare of those institutions. Your country, with the assurance which your former devotion to her gives, looks to you specially of all her children as watchmen on the wall, who will exercise for her that "eternal vigilance" which "is the price of liberty." Let your future be consistent with your past and make haste to do your work.

"Art is long and time is fleeting,
And *your* hearts, though stout and brave,
Still, like muffled drums, are beating
Funeral marches to the grave."

The noon-day of your lives is reached and soon the lengthening shadows of their declining sun will admonish you that the half-way house has been passed and that the night of the grave is approaching. Weary not in well-doing; and give your voice and your influence always for your country, so that, when the end shall come, with the consciousness that you have fought the good fight and kept the faith, victorious over the grave and with death disarmed of its sting, you

"Without a sigh,
A change of feature or a shaded smile
Can give your hands to the stern messenger,
And, as a glad child seeks his father's arms,
Go home."

HON. ANDREW SALTER WOODS, LL. D.

A Memoir Contributed to the Public Exercises at Dartmouth College, June 23, 1880, in Commemoration of Several Judges, Graduates of the College, then Recently Deceased.

Appropriate honors, at fit time and place, are due from the living to the dead. Brief reviews of the lives and characters of deceased graduates, as a part of the exercises at a regular anniversary of the college, cannot be regarded as inappropriate, especially when such reviews portray lives and characters worthy of study and imitation. An opportunity to be taught is given hereby, while at the same time a proper tribute is paid to the memory of departed excellence.

Andrew S. Woods must be classed among the eminent deceased graduates of the college. Born in the year 1803, he was graduated in the class of 1825; and, having studied law and been admitted to the bar, he began the practice of his profession in the year 1828.

He continued in a successful and lucrative practice until the year 1840. In October, 1840, he was appointed one of the associate justices of the Supreme Court of the State of New Hampshire, and held that position until March, 1855, when he was appointed chief justice of that court. He held the last named office until the court over which he presided was abolished,—not on account of any fault of his in that dignified position, or of his associates, but by reason of one of those wild and undiscriminating political tornadoes that sometimes sweep over the country and upset everything and everybody, regardless of what ought to command respect and of what is really meritorious. He then resumed the practice of the law, and was more or less engaged therein until his death, in June, 1863.

In estimating the character of a man who has made his mark on his day and generation the first inquiry is—What are the peculiarities that distinguish him from ordinary men?

In the case of Judge Woods, I should say that the prominent peculiarities of his mind were an accurate discrimination and a judgment that seldom erred. It was this that enabled him to discern in all his undertakings what to do, and what to omit to do. It was this that made him a safe adviser for his clients, and enabled him never to mistake the kind of action he ought to bring, and never to mistake the law applicable to the facts in his case. It was this, combined with industry and strict integrity, that enabled him to be successful in the management of his private affairs, and to make pecuniary investments that were safe and profitable. It was this, combined with a vigorous sense of justice, that enabled him while on the bench to search out and find the right with promptness, however complicated, conflicting or voluminous the testimony might be. It was this, combined with firmness, that impressed upon the community in which he moved, and upon everybody with whom he came in contact, the idea that he was a strong man, and that it would be safe to follow where he would lead.

I may remark here, generally, that his domestic relations were most congenial; that at his death he left a worthy widow and affectionate children to deplore the loss of a kind husband and an indulgent father.

I will not particularize on this point, but confine my special comments to his life and character, as manifested outside of the domestic circle and as known to the public. The public knew him at the bar, on the bench, and as a citizen; and they saw him, in each of these positions, discharge his duties ably and fairly.

As a lawyer, his cases were always well prepared. The law was carefully looked up and well considered. The evidence was sifted, and all impertinent and immaterial matter rejected. Only what would tell on the matters in issue was put before the court and jury. He never sought to dazzle the court by large displays of learning; but he always knew all the law needed for the case in hand; and he had a very terse and vigorous way of expressing to the court his views of the law.

Nobody ever claimed that he was a brilliant advocate. In fact, he does not seem ever to have studied what are under-

stood to be the peculiar graces of oratory, or to have cared about them; but he had a very clean-cut way of stating the issues in the case on trial, and of narrating the evidence bearing on those issues, so that nobody could help understanding.

He was a successful lawyer, and he won his success in the legitimate way — by hard knocks and honest labor, directed by keen discrimination and sound judgment. His brethren at the bar often called upon him for assistance in doubtful and intricate cases, and always found his suggestions valuable, and every legal opinion he might give pretty sure, on trial of the cause, to be established as the law. Always in earnest, and faithful, his client's cause was his own until it ended.

It was on the bench, however, that his peculiar abilities best fitted him to win distinction. In that position he gave universal satisfaction. Litigants and counsel always felt assurance that their cases before him would be thoroughly and impartially tried. He was prompt in seeing and appreciating the exact questions of law and fact upon which the case must turn. He was patient in listening to all that could be said upon the one side or the other, and in investigating all the authorities that could be found bearing on the case. His decisions were rendered with reasonable promptness, and generally were acquiesced in, or, if reviewed, were hardly ever reversed. Parties, after a trial before him and a decision rendered, whether they won or lost, always felt that he had tried their case; that they had been fully heard, and that the best result had been reached which a strong mind, guided by sound judgment, after patient consideration, could attain.

He was specially acceptable as the presiding justice at a jury trial. In this position very few of the most eminent judges equalled him. He was always self-possessed, and never made nervous and irritable by the annoyances of the most protracted trial. Very early in the trial he would apprehend the real issues, and be able to discern the relevancy of the evidence offered, and be prepared to rule thereon with promptness and accuracy. Business under his direction always proceeded right along, systematically and in order. His rulings were almost

universally sustained. Very few verdicts obtained at trials over which he presided were ever set aside.

He was uniformly courteous; and at the same time he carried himself with firmness and dignity, so that matters in his court proceeded pleasantly and with due decorum. In the administration of justice he ruled himself with a strong hand, and held absolute dominion over his passions. He was capable, at the proper time and place, of boiling over with righteous indignation; but he was always calm on the bench. He had strong dislikes for some persons, and equally strong friendships for others; and yet the keenest observer would not be able to detect the slightest difference between his demeanor while on the bench towards the lawyer to whom, outside the courthouse, he would not speak, and the lawyer with whom he was on terms of intimate friendship. He gave the same patient hearing to the arguments of both, and weighed what made for one and the other in the same impartial scales. He was absolutely blind to everything except the inquiry, which way, upon the law and the evidence, do the scales of justice incline? In guarding against favoring his friends, or doing injustice to his enemies, he never lost his balance and leaned the other way. He was strong enough to *stand straight.* In trials before him, both friend and foe got justice as equally and exactly as a clear intellect and a sound judgment could measure it out to them.

He never made large displays of legal learning. He did not seem to have any learning of a merely ornamental character. When he cited an authority, it was one that illustrated the point to which he cited it. His knowledge was for use. He always knew all the law that the case or the occasion required. His legal knowledge seemed to lie undisturbed in some private storehouse of the mind until it was wanted for actual use. It was then brought out, and this statement and application of it were seldom disturbed. He was familiar enough with all the sources from which a knowledge of the common law is derived to make his legal opinion a very safe guide. None of the eminent jurists who were his contemporaries could be relied upon more fully in this respect. He had a very accurate perception of the relation between different things or ideas,— of their adaptation or non-

adaptation; of their consistency or inconsistency. In short, he was endowed with very good common-sense. He was quick to see the right; his sense of duty constrained him to pursue it. His steadiness of purpose enabled him to stand to his work until it was accomplished.

The subject of constitutional law was within the scope of his habitual thoughts and inquiries. He abhorred a government with absolute power, and had very positive convictions as to the necessity of restraining arbitrary power by constitutional limitations. He was a great admirer of our peculiar system of free government, by which all local matters are left to be controlled by the local government, while matters involving the general welfare are alone entrusted to the federal government.

If circumstances had placed him on the bench of the Supreme Court of the United States, he would have been the right man in the right place. His keen discrimination, his sound judgment and sterling patriotism, would have made him a fit arbitrator to sit upon these constantly recurring questions as to the precise boundary between state sovereignty and federal supremacy. The fact that he did not serve in that position is the misfortune of the people rather than his. He did his work, and demonstrated what he was, in the field allotted him. His character is the same and his memory as dear as they would have been if he had occupied a more elevated place than he did.

Men like him must always be the chief reliance to preserve the well-being of a country where the popular will controls. Men like him, however humble or exalted in station, are blessings to their friends, guides and counsellors for the community in which they live, and pillars to uphold the state of which they are citizens. Death does not end their usefulness. They leave their good works and examples behind them, to be carried forward on the stream of time to the countless generations of the future.

Andrew S. Wood was an upright and patriotic citizen, an able lawyer, and incorruptible judge. He has left behind him a record highly prized by his friends, honorable to the college that was his *alma mater,* and to the country that gave him birth.

Peace to his ashes!

"The sweet remembrance of the just
Shall flourish when he sleeps in dust."

CERTAIN POLITICAL CONDITIONS AND TENDENCIES WHICH IMPERIL THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY.

ANNUAL ADDRESS DELIVERED BEFORE THE GRAFTON AND COÖS BAR ASSOCIATION AT LANCASTER, N. H., DECEMBER 29, 1882.

Gentlemen of the Bar of Grafton and Coös Counties:

I suppose that I am expected to make at this time a formal address; but since receiving notice that this duty had been assigned to me, I have not had time to prepare such an address, and shall therefore be obliged in this respect to disappoint your expectations.

There is enough that ought to be said on this occasion, and if I had had opportunity to put it in shape to suit me I would like to say it, or at least I would like to try to say some of it.

As it is, all that I can do, and all that I shall attempt to do, will be simply to call attention to some of the evils and calamities under which we, and the public in general, are suffering; to point out their origin, and to introduce to you a few ideas in reference to which, it seems to me, there ought to be, on the part of the bar of New Hampshire, earnest thought, discussion, and action.

In this country there is a close connection between the bar and the bench. The same thing is true of every country where the common law prevails; indeed, I think the same thing must be true everywhere under the system of jurisprudence that secures even a tolerable administration of justice.

The elevation or depression of either the bench or the bar will ultimately affect both alike. An irrepressible conflict is inaugurated at once between an ignorant, perverse, and tyrannical court and an enlightened, upright, and fearless bar, and it will go on until one is sufficiently elevated or the other sufficiently degraded so that the two will harmonize. It will go on until

either the court becomes more learned, less perverse, and more just, or the bar sinks into mere indolent, craven pettifoggers.

While the pillars of society stand as they now stand, the bench and the bar must remain mutually dependent on each other.

No professional fame that a lawyer can acquire is worth much, unless it is indorsed by the learned court in which he practises; nor can the reputation of a judge or a jurist be considered as valuable if it be not awarded to him by the discriminating judgment of an intelligent bar.

The past history of this country shows that in the main the bench and the bar have been true to the great trusts which have been committed to their hands. There has been generally that careful, painstaking application of the law which at the same time vindicates the law and does justice to everybody. The fundamental law has been thoroughly discussed and well expounded, and thus the liberties and immunities of the citizen made clear and secure. The principles of the common law have been so fairly and justly applied to our peculiar instituions and circumstances, that the public mind has settled down and rests with a feeling of security. As a consequence of this, our immense resources have been developed, and all the interests of a great and growing people have been greatly advanced and are still rapidly advancing.

In the past the bench and bar have worked zealously together, and the fruits of their joint labors have been glorious. To them the country is largely indebted for what has been accomplished in its behalf, and for its present well being. To them and to their continued fidelity to the great trusts that they have hitherto so faithfully executed, the country must incur a large additional indebtedness, if the brilliant hopes of its future greatness are ever to be realized.

I consider the present occasion a fit opportunity for the discussion of what is due from the bar to the bench, and from the bench to the bar; for the discussion of what each lawyer and each judge owes to himself, to his associates, and to the public, and for criticisms upon their respective doings so far as those doings characterize the general administration of justice. The path of duty for the bench and bar is plain

enough, and the individual members of those bodies need not err if they seek to find their respective paths of duty with the desire to walk therein.

In the first place it is the duty of judges and of lawyers to know the law, to seek diligently for it until they find it out. They should not only know the law, but they should also know its limitations, the reasons on which it is founded, the rights by it to be maintained and the wrongs by it to be remedied.

In the second place it is their duty, unawed by fear and unbribed by the hope of reward, to apply the law to the case in hand with such painstaking care as thereby to establish the rights of all concerned and to wrong nobody.

It is easy work for a judge to get on to some little corner of a case and then to plant himself on the strict letter of the law and push ahead, ignoring all other considerations. In this way he can write out with a very little labor an opinion that will sound well when read with the distinguishing features of the case suppressed; but such a disposition of cases is quackery on the bench, and the judge who practices it marks himself as an indolent, reckless, and unscrupulous judge.

It never will do for a judge to seize hold of the mere words in which a rule of the law is couched, and then to shut up his eyes and ride roughshod over its limitations, heedless of the reason why it exists, of the particular wrong to be redressed and of the specific rights that are in danger.

Principles apparently well established, upon which important rights are resting in supposed security, may be thereby summarily wiped out. There may be a general slaughter of the innocents, sickening to behold, and wrong be triumphantly elevated and made master of the situation. It is just as likely to be so as any other way.

An able and vigilant bar cannot give us the assurance that justice will be the outcome of legal proceedings unless we also have an intelligent, industrious, independent, and conscientious court.

The judge that stoops to demagogy, or becomes servile to any mass or set of men, or to any party, is no proper judge. He is simply a tyrant, or what is infinitely worse, the mere tool

of tyrants. An upright court worships the God of justice, and knows no master save the law.

The rights of individuals and of corporations, both public and private, are to be determined and settled by the Constitution, by the statutes, by the law as it has been authoritatively expounded, by immemorial usage, and by those everlasting principles of justice that underlie the organization of every civilized society. Judges and lawyers cannot be aided in their respective vocations, except by what helps them to see deeper and more clearly into the law and enables them so to apply it as to answer the end for which it was ordained.

It is always wrong to bring, or to attempt to bring, party politics to bear upon the settlement of legal questions. A judge, as a judge, has no business with party politics, and has no legitimate use for them. He should never be put on or off the bench because he is or because he is not a partisan of a particular stripe. The idea of mixing up a certain amount of political partisanship of one kind with a certain amount of political partisanship of one another kind and putting the mixture on the bench and calling it an impartial court would seem, inasmuch as partisanship of every kind is out of place there, to be a gross absurdity. I should just as soon think that profane swearing is essential to qualify a preacher to give in the pulpit sound gospel preaching, as that political partisanship is essential to qualify a man for a seat on the bench. It seems to me that it is just as sensible to claim that the pulpit is all right because it is supplied by a certain number of preachers who can curse one way profanely, and a certain number who can curse the other way profanely, as it is to claim that the court is all right because a part of the judges are Republicans and a part of them are Democrats.

Unless some mischievous muddle is required, or unless it is necessary that somebody should be humbugged, there cannot be any occasion to constitute a court in that way. There is no sense or reason in holding that you have built up a good thing because you have put two diverse elements in a place where neither of them belongs. There is no precedent for it in nature or history and none in poetry, unless the decoction prepared

by Shakespeare's witches in the play of "Macbeth" be regarded as one.

The only legitimate questions to be asked in the appointment of a judge are, Is he capable? Is he honest? Does he know the law and will he be governed by it? I do not know of any safe rule by which to select judges, except to select them from those members of the bar who have there already run successful careers, illustrated throughout by distinguished industry, probity, and ability. To appoint judges by any other rule is simply to make an experiment which would probably prove a failure.

The present age is certainly in some respects, to a marked degree, an age of progress. The laws that control the forces of nature have been studied, and the practical knowledge thus acquired has been made to promote the convenience and subserve the necessities of man very largely in very many ways. The steam engine and the telegraph are some of the trophies that have rewarded those students who have wisely applied the knowledge obtained by a diligent study of the laws of nature.

But I am afraid that it cannot be said that our modern civilization is intrenching the citizen and making him more secure in the enjoyment of his rights of person and property. I am afraid that it cannot be said with truth that there is progress in that direction.

There certainly is good reason to fear that the safeguards in the Constitution and in the common law for life, liberty, and property are getting shaky and weather-beaten. Those great safeguards can be said to be secure only when they are watched over by an enlightened, independent, and incorruptible judiciary.

The thoughtful man sees danger ahead whenever the independence of the judiciary is menaced, and he sees the last of free institutions when its independence is hopelessly overthrown.

The present standing of our courts, both state and national, when contrasted with their former standing, is not so encouraging as to flatter one very much who desires to see our free institutions perpetuated. It is very certain that the Supreme Court of the United States does not have the confidence and the pro-

found respect of the people now as it did in the days of Marshall and Taney. This court, the final arbiter which must determine where it is that the Constitution has marked the boundaries between federal supremacy and the reserved rights of the states, has duties and responsibilities the highest and gravest that were ever imposed upon an earthly tribunal.

That court is the great regulator of our magnificent governmental machinery, and its life depends upon preserving its independence and purity. When General Grant, as president of the United States, put two puppets of his own upon the bench of that court. to reverse one of its solemn decrees upon a great constitutional question, he struck a deadly blow at the liberties of his country. He degraded the court in its own eyes, as well as in the eyes of the world. His blow was aimed at a vital part of our complex but beautiful system of free government, and its effect was to weaken the great barrier that opposes the advent of imperialism. Up to this time the Supreme Court of the United States had not been packed for any purpose, nor had its decisions been coerced or tampered with by either of the coördinate branches of the government.

If this act is to be recognized as a precedent, then indeed there has been a most dangerous precedent inaugurated, and the law hereafter is to be the will of the man who happens to sit in the presidential chair.

The republic will not be safe unless that act be branded with a disgrace so deep that no one will dare recognize it as a precedent and that no one will remember it except for the infamy which surrounds it.

But whatever may be said about the deterioration of the federal courts, it cannot be denied that the courts of New Hampshire have made far greater downward progress. The simplicity, uniformity, and certainty that characterized the application of the law by the courts in the days of Richardson, Parker, and Gilchrist have given place to the novelty, variety, and sensationalism which characterize the application of the law by our courts today. Formerly the experienced practitioner could advise his clients as to their cases and the law applicable to them with confidence, but now the greater the ex-

perience that the legal practitioner has had in our courts the less confidence will he feel in any opinion which he can give.

If anybody had a specific case that he proposed to test in court and should want a positive opinion as to what the result would be, he would be obliged to consult a lawyer not familiar with the way and manner in which the law is authoritatively expounded and applied in New Hampshire at the present time.

I think the experience of every lawyer who has had much recent practice in our courts has generally been about this—that having brought his suit after careful consideration, and got or lost a verdict, and having landed his case in the Supreme Court, he has found it there finally disposed of by an opinion perhaps of great length, winding in a circuitous, roundabout way of novel reasoning through many pages of the printed reports, to a conclusion of which he never dreamed; or perhaps he has found the same conclusion reached in about four lines, not enough of it for the head note of an ordinary opinion. And after getting the opinion in his case, whether it is the long one or the short one, and studying it carefully and trying to get at the principle of law settled by it, he has found, on mature deliberation, that the most definite conclusion he is able to arrive at is the conclusion that if he should bring a new suit just like the old one, resting on the same grounds, he might lose it and he might not.

Sharp cuttings up, novel methods, sudden thrusts and incisive words deriding all precedents and dictated by the impulse of momentary inspiration, however entertaining they may be at all times to the unreasoning multitude, and however proper they may be on some occasions, are not the things to aid in the just disposition of legal causes and in that business are a poor substitute for the accumulated wisdom of ages. The complicated affairs of civilized society never can be adjusted fairly in this way, and when we remember that the sole object for which courts are created is to dispense justice, argument becomes unnecessary to prove that there has been a decadence in the character of the courts in New Hampshire. You all must be painfully conscious of the fact. Some of you may have spoken

about it and some of you may have been silent, but you all must know the fact.

The questions that now naturally arise are: First, is there a remedy? Secondly, if there is a remedy what is it? No rational answer can be given to these questions unless we know the real character of the trouble and its cause. It must be conceded that the trouble is chronic in its character; it is deep seated; it has been a great while coming on and has gradually been getting worse and worse. Reasoning from analogy it would seem that a powerful remedy sufficient for an immediate cure might kill the patient. Any radical measure that should cut the trouble out at the roots could only be the outcome of a violent revolution which might knock down the pillars on which society rests. The trouble may be incurable and yet be toned down and made more endurable by studying its cause or causes and removing the same so far as it is practicable. Indeed it is perhaps not impossible to effect a permanent cure in that way. I think the cause of the decay of the bench in New Hampshire is plain enough. I do not think there can be any disagreement among thoughtful men, whatever their party affiliations may be, as to what that cause is. It was throwing the judiciary into the boiling caldron of party politics and making its very existence depend on the shifting prejudices of partisan caprice. Under this terrible ordeal the independence, the dignity, the self-respect, the patient labor to do justice for the sake of doing justice, which charactrized the old court, withered away gradually and finally died out, and in their place we have got what we now have; what inevitably follows such a course. We have got in place of what we once had on the bench, the cunning dexterity of the artful dodger and the meek subserviency of the pliant tool.

I date the beginning of the decline of the New Hampshire bench at the advent of Know-Nothingism in 1855, and I ascribe its continued decline until it has reached its present condition, to adherence to the precedent then inaugurated.

Up to 1855, for a period of nearly forty years, the judiciary of New Hampshire had stood substantially unchanged, and had been adorned by the names of many illustrious jurists. It

had done its work well and was then doing its work well. It had maintained and was maintaining the high and dignified character that becomes a judiciary of a state. It had done equal and exact justice to everybody, and there was no cause of complaint anywhere. It was not guilty of any fault and it was not charged with any fault. And yet in 1855 this Know-Nothing party, having suddenly sprung into existence in secrecy and having attained power through the agency of religious intolerance and race bigotry, abolished the then existing judicial system of New Hampshire for no earthly reason or pretence except to enable them, as political partisans, to create in place thereof a new judicial system to be supplied with judges of their own appointment.

Soon after the inauguration of the new court it came to pass that divers officials, who had been decapitated in the general sweep of all the officers in the state, made in one form and another by the Know-Nothing party, met with sudden political conversions and went over and joined the party by whom they had been decapitated, and having thus qualified themselves for seats upon the bench of the new court, some of them were speedily rewarded with seats thereon. In this way the rule was established and has remained established unto this day, that a man in order to be fitted to have a seat upon the bench of the highest court in New Hampshire must have a partisan qualification.

And thus the downward career of the courts of New Hampshire began and has continued in the same direction to the present time.

In this state of things, if it is desired to get a particular man on the bench, it will only be necessary for that man to get on the right side of all the file leaders and of those that do the "horse-shedding" of the dominant political party, and then to throw a few sops and tid-bits to all the little and big isms which are uppermost in that party. If he attends to this business well and does it up thoroughly, he will get his appointment. But when he has got his appointment his troubles have just begun; he must continually be consulting and placating the crowd of ephemeral politicians that strut across the stage of politics

in endless procession. No matter how learned a judge may be or how diligently he may work or how carefully and justly he may apply the law, if he neglects his trotting round, if he fails to placate the powers that made him and the powers that may make him over again, when the next deal comes round he will be sure, sooner or later, to be left out in the cold. It is perfectly unreasonable to complain of our judges as individuals because they are arrant demagogues. What else have we a right to expect of them? I think it is inevitable that our judges will be demagogues; otherwise they could not get their appointments, nor keep them when obtained.

The fault lies in the character of the qualifications that are required to fit a man for the office of judge, and in the character of the conditions that are annexed to the tenure of that office; all of which are outside of the Constitution and in direct violation of its spirit, if not its letter.

In addition to starting our courts on their downward career, Know-Nothingism planted the seeds of another great evil, which has produced crop after crop, each succeeding crop larger than the former, until the demoralization has become general. I refer to the business of bribery at elections. Year by year this evil is growing in magnitude. Our people, one after another, are dropping into its vortex, suffering all the manhood in them to rot out of them and transforming themselves into mere cattle. The powers that be seem determined that this evil shall go onward and have free course. They put their veto upon every effort to obtain legislation that will tend to check it. As a natural consequence the man or the corporation or the institution of any sort that furnishes the money to buy up the election owns the plunder thus obtained, and is a power which everybody in official life must heed; even the judges on the bench, they must cater to it and placate it or be left out in the cold. It would not be any more disreputable to put up all the offices of every description at auction and knock them off, singly or in lots as may suit the purchaser, to the highest bidder, than it is to make merchandise of the sovereign people and put up the offices at auction indirectly in that way. The two modes are the same in principle. The auction mode is a step in advance, open and

above board. If it is settled that it is legitimate to barter votes for money, then it plainly follows that it is the fair way to put up the offices at public auction and give everybody a chance.

Decay and dilapidation are not limited to our courts. On the contrary the whole body politic is infected and public virtue seems to be clean gone. Thirty years ago such a thing as buying votes with money was unheard of, and the bare suggestion that an election had been carried in that way would have aroused a perfect hurricane of popular indignation. Today votes are put upon the market and bought and sold as if they were ordinary, legitimate merchandise. and when it is proposed to strike a blow at this abominable traffic by appropriate legislation, men claiming to represent all the morality and all the decency which the state affords stand up and squarely vote that legislation down. The public seems to be paralyzed and powerless. A part of the public is made up of those who sell their votes, a part of those who buy and the rest stolidly stand and look on with an indifference amazing to behold and hard to understand. Whenever public opinion starts a little blaze of popular indignation over this and kindred evils, it is met at the polls and there smothered and buried out of sight with money. Everybody deplores this state of things and wants reformation, but when it comes to action those who talk one way and vote the other are always in the majority.

In view of this state of affairs it is certainly pertinent, on the present occasion, to inquire what part we ourselves have taken in the past in reference to these matters, and what part ought we to take in the future. While the tide has been and is thus drifting to the bad, what has the bar of New Hampshire been doing? What are they doing now and what do they propose to do?

As it respects the past there never has been any such organization of the bar of New Hampshire as to develop concerted action by its members upon any subject.

We have had many individual members of the bar who have lived lives of untiring industry and enjoyed a wide reputation for professional skill and integrity; but the influence of the life and labors of each has been limited to his own peculiar

sphere. We never have made any combined and united effort to stay the encroachments of evil, or shape the course of events.

The present meeting is in pursuance of a plan for organizing the bar of two counties, Grafton and Coös, into a permanent association for social purposes and for the discussion of whatever is interesting to lawyers, and generally for the promotion of all things that are wholesome and of good report. I think the idea is a good one. No harm can come of it and it may be productive of infinite good. It may be a nucleus that will grow and, kindling the fires of reformation, will illuminate the whole land, so that the clouds now obscuring the fair name of our state shall pass away and New Hampshire be restored to the position which she once held among the states of the Union, when she could boast with truth that she was the mother of men, of warriors, of jurists, and of statesmen. Whatever we can do that shall redound to the honor of our profession and promote the purity and decency of its practice, is certainly in the direct line of duty. This organization will concentrate our efforts and give us unity and power to do good. We can promote our own well being; we can help the courts in the performance of their legitimate work; and we can aid the people in securing themselves from the foul corruptions that are threatening the annihilation of public virtue.

It is not an agreeable task to discuss vice, folly, and neglect of duty, even in a general way; but the task becomes more delicate and harder when you are obliged to specify persons and things. I come now to speak of a particular neglect of duty on the part of the courts, which has been felt to be a very great grievance to the bar, and for a long time has been the subject-matter of loud complaints. I refer to the neglect of the courts in suffering themselves to get so far behind in reporting the decided cases. I know of no reason for withholding these reports; I have heard none assigned. It seems to be a neglect without excuse or palliation. The court, with cool indifference, sees the bar struggling with their difficulties and groping in the dark while loaded with the responsibility of advising their clients rightly; complaints fall on deaf ears and are not heard, or if heard are not heeded. Nobody justifies the court in this mat-

ter; nobody will attempt to justify them. It is without parallel in any of the numerous state and federal courts of the Union; and yet the great body of our people are drifting along, apparently quiet and unconcerned, while these complaints, which everybody knows are real and not the mere vaporings of suitors and lawyers who have lost their causes, are ringing in their ears.

The indifference of the court and of the public generally to these complaints would seem to be unaccountable; but upon deeper inquiry and on consideration of the real situation the reason for the neglect and for the indifference to complaints is plain enough. The real tenure by which the judges hold their offices is the reason. I have already shown that our judges do not in fact hold their offices during good behavior, in accordance with the Constitution, but only during the pleasure of the partisan power that happens to be uppermost for the time being, in accordance with a precedent permanently established in violation of the Constitution.

A man who finds himself in the possession of official power and dignity wants to keep them, and turns his attention naturally to such measures as he thinks will make him secure in that possession.

When a judge is carried into office on a partisan wave he knows the potency of that wave and fears it, and he knows too that there may be a reflex wave also potent, and he goes to work by instinct to keep the powers that be placated, and also, if he does his work thoroughly, to placate the powers that soon may be. This business will assert itself and keep itself uppermost in his mind and in spite of himself urge him on or hold him back in everything he does. Applying the law so as to do justice, and writing out consistent opinions and publishing them for the bar to read, are secondary matters, to be laid on the table and attended to when the important business is finished. The situation of the judges on the bench, the manner in which they got there, the tenure by which they hold their places, and the influence which necessarily all the while must be operating upon them are such that, assuming for the judges the ordinary frailties of humanity, results similar to those of which we complain

must necessarily follow. Under the circumstances it would be unreasonable to expect that the legal opinions of the court would not be more or less sensational and more or less shaded by the influences operating upon them, and that those opinions would never conflict with each other and the established principles of the law. It would also be unreasonable to expect the court to have the time or the inclination to labor diligently in the preparation of their opinions for publication unless it might be some special opinions which they desired promulgated for effect. Considering all the surroundings of the court, the many things they have had to do, the strait-jacket in which they have been laced, now pinching here and now pinching there, I think, so far as their decided cases have come to our knowledge, their opinions are no more sensational or warped or conflicting or contradictory of established principles than what, in view of such surroundings, ought to have been expected, and I think that the court have furnished us with all their opinions in the cases by them decided which they had the time or the inclination to furnish. On the whole I am inclined to the opinion that it has probably been better, both for us and the court, than it would have been if we had had the decided cases fully and promptly reported. In case we had been promptly informed of all the decisions of the court, I doubt not we should have been worse bewildered, more confused, and less certain as to the law than we have been, and the court, while holding under its present tenure, needs to be in light marching order, unencumbered by the worse than useless baggage that a map of loose, contradictory precedents would be. The call for reformation is loud enough, but the individual members of the court are to blame only for taking places under such a system. Having accepted their positions they have acted as their surrounding compelled them to act. A bird with clipped wings cannot fly, nor can a man loaded with chains walk with freedom. The fault is in the perversion of our judicial system, which has been wrenched from its constitutional moorings and set adrift on the wild waves, under the guidance of a crazy, Know-Nothing precedent.

It may be well enough to make an effort to obtain a report of the decided cases by securing more stringent legislation on

that subject; but I doubt about our getting much satisfaction in that way so long as the court remains as it is and the judges understand their tenure of office to be what they now understand it to be. It has been suggested that we make a new court, that is, that our present judicial system be abolished and a new one substituted in place of it, and that either the old set of judges, purged of the obnoxious members, be reappointed or a new set altogether be appointed.

This would be a mere continuation of the see-saw business inaugurated by Know-Nothingism in 1855, and would result in knocking the court down on to a plane still lower than the one they now occupy. It would be going from bad to worse and simply create a new court with a tenure more precarious than the one under which the present court holds. I think the story about the traveler who objected to driving away the swarm of insects that covered his person because a more hungry swarm might come has application here.

We want no more new courts until there is a new order of things, until the lost independence of the judiciary is restored and it is understood that judges hold their offices under the Constitution and not subject to the Know-Nothing precedent of 1855. When the morning of the day that shall usher in this new order of things shall dawn, then, and not till then, either let the old court be born again or a court altogether new be created. That day will be a glorious day when we shall see the court clothed with self-respect and with the dignity of the olden time, seeking diligently to do justice for the sake of doing justice and not for the sake of making a display the fame whereof shall be wafted on the winds and blazed on the house-tops, while the great body of their labors lies sleeping in oblivion. The judges will not then be behindhand with their reports. Daylight will then shine on their works, and we shall rejoice in the possession of the means of knowing what the law is.

The judiciary will be out of politics and will be no longer a machine with which to run politicians or to be run by politicians. Legal opinions will cease to be issued from the bench in the interests of politicians or to please popular fancies.

A judge will be selected for his probity, for his learning, for

his great industry, and for his sound legal discrimination and judgment. His politics will be let alone. It will be assumed that he is not fit for a judge unless he knows enough to vote intelligently and conscientiously and can safely be trusted with that responsibility.

This new order of things may be afar off and it may come soon. I believe it will come some time; all we can do will be to hope earnestly, pray devoutly, and labor diligently for its coming at an early day.

In conclusion I submit to you whether or not I have exaggerated the evils I have named and whether or not those evils have originated from the causes I have suggested. I also submit that it is time for reform; that the best way to secure reform is to remove the cause of evil; that the people ought to be awakened to a realizing sense of the dangers by which they are surrounded, and that they ought to be induced to rescue the elective franchise from prostitution and to restore to the judiciary its constitutional independence.

And further I urge that reform is necessary, not only for the preservation of the welfare of our people, but it is necessary in order that the honor of our state may be saved and that the name of New Hampshire may not become a byword and a reproach in the mouths of her sister states.

THE LIFE AND DEMOCRACY OF JOHN HATCH GEORGE.

ADDRESS DELIVERED AT MANCHESTER, N. H., BEFORE THE GRANITE STATE CLUB, JUNE 27, 1888.

Mr. President, Ladies and Gentlemen:

I speak tonight in memory of a distinguished citizen of the state, with whom, in his lifetime, most of us were associated, and whose name is familiar to all — Col. John H. George.

There is danger on all such occasions that speech may not be bounded by its proper limitations. On the one hand the very generally accepted rule, "*Nihil de mortuis nisi bonum*" may tempt the speaker to indulge in extravagant, indiscriminate, and consequently unmeaning praise. On the other hand, by closely analyzing and justly reviewing the character and work of a pronounced, positive man, slumbering animosities and forgotten prejudices may be revived. I do not fear falling into the language of unmeaning eulogy, but I do apprehend that the duty which I have undertaken requires me to be specific, to discuss Colonel George as we knew him, to consider his political and professional services and the times in which and the circumstances under which those services were rendered. At his death he had been for many years a trusted leader of the Democracy. In their service he was prompt, fearless, able and untiring. He is now in his grave. His last blow is struck, and his voice is silenced forever. Everybody, friend and foe alike, stands today ready to honor his memory and to accord to him singleness of purpose, sincerity of heart, and that steadfast earnestness which can come only of honest conviction. But we are not here at this time merely to honor his memory. We are here to study his character, to review his life-work and to be instructed by his example, and especially to review his political teachings and example. Such a review as the one last named necessarily involves the consideration of political parties, of their principles,

of their attitude towards each other and towards the country during his life-time. In the discussion of these matters I shall speak from the Democratic standpoint, but, as I believe, in accordance with impartial history as hereafter it must be written. The shadows of coming events seem to indicate that the government of this vast country is about to be more fully than now confided to the Democracy. The hopes of humanity everywhere are for the perpetuity of our great Republic. Within its wide borders freedom exists and the masses of men have attained a higher and better life than was ever enjoyed here or elsewhere by any people in any age. The promises for the future are boundless; prosperity without limit, growth incalculable and an increase of all the materials necessary for the enjoyment and happiness of countless millions. Nothing but our own folly and wickedness can prevent the fulfillment of these promises. In view of the more than probability that the responsibility of guiding the Ship of State is about to rest permanently upon the shoulders of the Democracy, it behooves each individual member of that party to consider his position and to get a realizing sense of the share of the work which he ought to perform.

Our government was created for the people, by the people. The people are the sovereigns. Office-holders are the servants of the people, and are made and unmade by the breath of the people. So long as the people are intelligent, vigilant and incorruptible, their servants in official stations will be faithful; but when the people relax their vigilance, ignore their power and barter their franchises, their representatives will be false, their liberties be lost and the country ruined.

No citizen can afford to be ignorant of his position or to fail in the performance of his share of the work necessary for the well-being of the republic. These duties he owes to himself, to the state, to posterity, and to his God. We are not honest party men if we are party men for the purpose of getting the spoils of office and fattening at the public crib. When partisanship sinks to that plane it becomes one of the most unmitigated of curses, and fit language of malediction for it cannot be found. We are Democratic because we believe that the ideas, theories and principles of the Democracy are adapted to our institutions and

to the wants of the people, and when honestly applied in the practical administration of the government, will be sure to work out the greatest good to the greatest number.

Political parties have no legitimate existence except for the welfare of the country, and the political party that guards most safely the muniments of liberty, that vindicates with the greatest firmness the national honor, that gives the largest encouragement to the development of the resources of the country, that opens up the broadest fields for industrial and commercial activity, and that most steadfastly seeks to increase the enjoyment and happiness of all men by elevating them to a higher and better level, is the party to which the people ought to entrust the administration of the government, and it is the party to which they will entrust its administration, if not at the first opportunity, most certainly when the sober second thought has been taken.

A review of the political teachings and example of Colonel George will be a review of the grand old doctrines of the Democracy as expounded and illustrated by the fathers, by such men as Jefferson, Madison and Jackson. Those doctrines guided the government for more than fifty years, and during that time made peace and good will to exist throughout our borders, and under the Constitution protected liberty and secured the perfect enjoyment thereof. And today the political clouds that have darkened the public mind are fast disappearing, and we can see that those doctrines still live in the hearts of the people and will soon resume their ancient sway.

We are not compelled to study Colonel George as a politician in order to understand his character. His character was written all over him and illustrated by every breath he drew and every word he uttered. We want his example as a politician for instruction; we like to hold up to view a politician who had a faith, who believed what he taught. His sincerity and earnestness were made manifest in whatever he did. He hated all shams, lashed those who assumed virtues which they did not possess and rebuked canting hypocrites of every sort. The men who dealt in isms, schemers and cranks got no quarter from him. He never "crooked the pliant hinges of the knee" to anybody that "thrift might follow fawning." He could stand alone, and, if necessary, fight his own battles.

His identity could never be mistaken. Wherever he was, whether in the court-house or on the stump, whether in school-meeting or before an agricultural society, he was always the same man. The mental forces he possessed were always at command and could be brought to bear at any time upon the matter in hand. He appeared to handle any subject that he attempted to elucidate with as much ease and familiarity as he would if he had made its study a specialty. He would deliver essays on agriculture and talk to farmers about the rotation of crops, the difference in soils, the breaking of colts, and all matters pertaining to good or bad husbandry to their satisfaction, and apparently with the same accurate comprehension of what he was talking about, that he would exhibit in the argument of a legal question in a court of law.

Colonel George, ever ready to respond when speech was invited, got no credit for possessing intellectual power in the way some men do who "are reputed wise for saying nothing." Open as the day, with nothing behind the door, brave, and with characteristics clean cut and marked, he lived a life of which his friends may be proud and which his enemies must respect.

He was born on the 24th day of November, 1824, at the paternal mansion in Concord, N. H., where he resided through life, and died on the 5th day of February, 1888. His parents belonged to that good old New England stock which has been so prolific in the production of strong and leading men in every department of life, and which has done so much all over the country in subduing the wilderness and planting civilization. His father, John George, a man of probity, character and influence, a native of Hopkinton, in early life became a citizen of Concord, and died there in the year 1843. His mother, Mary Hatch, inherited the sterling qualities of her family. She was the daughter of Samuel Hatch, of Greenland, who was the grandfather of the distinguished lawyer, the Hon. Albert R. Hatch, late of Portsmouth, now deceased, and also of another distinguished lawyer, the Hon. J. S. H. Frink, of Portsmouth, still living, with long years of increasing honors in prospect. I have no data as to any specific incidents actually occuring during the boyhood of Colonel George that would indicate, in embryo, the character which afterwards was developed, but I have no

doubt such incidents did occur. I have no doubt that he so fought the inevitable battles of boyhood, and that he so carried himself during the incipient stages of life as to give promise of the manly courage, the ability, the fidelity and the sincerity which characterized his maturer years. After a preparatory course in the public schools and academy at Concord, he entered Dartmouth College in 1840. At the end of three years he was called home by the death of his father and did not finish the remainder of his college course.

He maintained a good standing in his class for diligence, scholarship and good deportment. He was popular with his fellow students, and contracted with some of them strong ties of friendship that lasted through life. His three years in college gave him the substantial part of the training of the full course, and after the graduation of his class the faculty conferred upon him the graduating degree. The abrupt termination of his collegiate life occurred before he had formed any definite plans as to the future. Fortunately for him, at this time he fell under the keen observation of Gen. Franklin Pierce, who, detecting the germs of promise that the young man possessed advised him to study the law, and offered to take charge of his studies. Accordingly he entered, as a student, the law office of Pierce & Fowler, and studied diligently for three years, when, after passing a creditable examination, he was admitted to the bar. He thereupon entered upon the active practice of the law, and began a successful professional career that lasted for more than forty years. There has been no time in the history of New Hampshire when its bar could boast of more brilliant advocates or abler lawyers than it could at the date of the admission of Colonel George to its ranks. At that time Franklin Pierce, Ira Perley, Charles G. Atherton, John P. Hale, Daniel M. Christie, John S. Wells, Josiah Quincy, and a host of other lawyers, with kindred powers and scarcely less known to fame, were in the full tide of successful practice and making the legal profession in New Hampshire to shine with a lustre seldom equalled anywhere.

Colonel George, entering upon his legal career in the face of such formidable competition, soon acquired the good will and respect of his associates at the bar. Clients and business rapidly

gathered around him. At different times he was associated in the practice of the law as partner with several gentlemen, all of whom were eminent in the profession — at first with General Peaslee, and then, for a short time, with the Hon. Sidney Webster, and subsequently with Judge Foster and the Hon. Charles P. Sanborn. All through life his labors alternated between law and politics. Those subjects were so nearly allied in his mind that he could turn with infinite ease from one to the other. At an early age he gained the confidence of the people and became a popular favorite. The Democracy committed to his hands important trusts. He was chairman of the Democratic State Committee, and during the administration of General Pierce was United States district attorney, and in these positions he discharged his duties ably and efficiently. Apparently a seat in Congress and a brilliant national reputation was near at hand, all opposing political elements being everywhere beaten; but in the political campaign of 1855, those elements organized in secret the aggregated prejudices and superstitions of centuries, and with that artillery under cover, opened fire on the Democracy. Unaware of this extraordinary attack, stuggling bravely with unseen foes and vainly striking at the empty air, the Democracy went down and were submerged in the sea of Know-Nothingism. The Democracy of New Hampshire "met the *Black Knight* with his visor down" before his wily tactics were understood, and they were vanquished. Since the advent of Know-Nothingism, at each recurring election in New Hampshire the Democracy have marshalled their forces in the face of almost uniform defeat, with full ranks, and with a courage and devotion which could come only from a patriotic sense of duty and an abiding confidence in the justice and ultimate triumph of their cause. Today, an examination of the political situation shows that the ranks of the opposition are so far disintegrated and honey-combed, that one more united, determined effort on the part of the Democracy, such as they have been making all along, will redeem the state and restore to it good government.

Sectional hate and bitter passions engendered in the fiery furnace of civil war have been carefully nursed by the Republican party. That party has labored most assiduously to pre-

vent the wounds of the war from healing. They have ripped open its bloody gashes on the recurrence of each political campaign, and, by fierce appeals, sought to fire the Northern heart, as if war with all its horrors still existed between the North and the South. This unpatriotic mode of conducting political warfare, now generally known by the inelegant but expressive phrase, "waving the bloody shirt," gave the Republican party short-lived gains and permanent loss. It created in their favor at the North an unreasoning madness for a season only, while it alienated from them forever the hearts of the Southern people. There is a compensatory justice in the workings of the ordinances of Divine Providence, as it respects parties and individuals, and everything in this world. Whoever seeks to gain temporary advantages by undue means is sure to suffer in the end. The constant "waving of the bloody shirt" has made the South solid against the Republican party and solid in favor of any party that comprehends within its creed the idea of promoting and establishing union, harmony and prosperity everywhere all over this broad land, and knows no North, no South, no East, no West. The Southern people shun with instinctive dread the dominion of the Republican party, because they see that party seeking to maintain itself by making them odious and by increasing their calamities and miseries. The solid South aids the Democracy, whose broad and liberal principles protect everybody and all sections alike. It is the common sense of the people that there must be peace, that sectional hate must cease. It is certain that the worn-out and gone-by Republican party must go down before the Democracy, aided by the solid South and backed up by the common sense of the whole people. The Republican party was born, has lived, and is today a sectional party. It had its origin in the revolutionary theories and fierce passions that engendered the Civil War. It was nurtured in the throes of that war, and since the war it has kept itself alive by a *quasi* war carried on by it against the Southern people. This country, united, and seeking to promote and to preserve peace and harmony throughout all its borders, has no use for the Republican party. That party ought to have died at the close of the war, and at the same time that the other parties of kindred origin

died. Today, the most patriotic thing which the Republican party could do, would be to die, and if it be necessary that some party should occupy its place, then let it be born again, and when it shall come into its new life let it come with new principles and new ideas adapted to a great and united country, and suitable for honest men in all sections to embrace and support.

It is not, however, a matter of special anxiety as to what the Republican party may or may not do. Its power in the nation is broken.

I have now, in a general way, noticed the party that threw the Democracy out of power in New Hampshire, in 1855, and subsequently in the nation, and that still holds dominion in the state, and until recently in the nation. The supremacy of this party effectually barred all opportunity for Colonel George to receive congressional honors and to acquire a national reputation.

After the Democracy lost power he always remained a private citizen, but he lost no opportunity to castigate the ruling party by denouncing its heresies, exposing its shortcomings, and criticising its bad methods. In the meantime the records of the courts bear witness that he was also busy there. He tried a large variety and a vast number of causes involving all sorts of questions, with infinite tact and great ability. He was much employed in legislative hearings before the Legislature of New Hampshire, and also before that of Massachusetts, oftentimes upon matters of great importance to both public and private interests. He had a great deal of experience in railroad litigation and other railroad matters. He was permanently engaged as counsel, ever after an early period in his professional practice, for several important railroads. He was not only familiar with the legal rights and liabilities of railroads, but he studied and knew the business of railroading in all its various aspects. He had a correct apprehension of the mixed responsibilities of railroad corporations to the public and their stockholders. He knew the sources of railroad prosperity and could discriminate accurately between such as were legitimate and such as were illegitimate. His judgment was good and much relied on in regard to the effect of changes contemplated for the better

accommodation of the public and increased profits to the stockholders. He could calculate with great accuracy the advantages that would result from any proposed improvement in railway methods. He was keen to discern any change that would save railway expense and thereby cheapen railway accommodation to the public. At an early day and in advance of most railroad men he became the firm advocate of consolidating short railroads in the same continuous line. He advocated this improvement against strong opposition with all the intense zeal, earnestness and pertinacity peculiar to him when his convictions were firmly fixed. He advocated it in the interest of the public. He took the self-evident ground that one long road created by uniting several short roads, could be operated as an entirety, at an expense much less than the aggregated expense of running separately the several short roads out of which it was constituted, and, further, he took the ground that the saving thus made should go to the public in the shape of cheaper fares and freights, and not be given to speculators. Colonel George was the implacable foe of all schemes for robbing the public by jobbing in railroads or railroad stocks. He always contended that the stock in a railroad corporation should be fixed in its amount by the cost of construction, and never, under any pretext, be watered.

For forty years he was counsel for railroads in every variety of financial condition — railroads that were bankrupt, railroads that were poor but solvent, and railroads that were rich. He supported his family in good style; he educated his children; was liberal with friends and hospitable to all, and died leaving a good estate which puts his family outside of all want, and yet he never speculated in railroads or railroad stocks. The theories that he advocated as to what constitutes honest railroad management he carried out in practice.

His success in the conduct and trial of cases in court arose from his habit of ascertaining the facts as they were likely ultimately to be established, and from his power of discriminating accurately, and fixing upon the law that had application thereto, and would determine the final disposition of the cause. He was sagacious, bold and potential in marshaling his witnesses, and in

arranging the evidence. He always so discreetly presented his evidence to the court and jury that he obtained for it the full weight to which it was entitled. He never mistook the bearing of a piece of testimony and he could measure its force with a great deal of certainty and tell about how much it would contribute towards convincing the tribunal trying the cause. When he entered upon a trial he always had his evidence and his law in hand, and never hesitated in the presence of the court and jury, but pushed ahead promptly and with manifestations of perfect confidence that his side was strong and victory sure. He could see at a glance the facts that his evidence would prove or tend to prove, and the legal points involved. Outside of and beyond knowing all the law that his cases required and of which his clients had occasion to be advised, I do not think he made a practice of encumbering himself with legal learning. Legal discrimination and judgment, together with integrity, each in a high degree of excellence, are indispensable qualifications for a great lawyer or a good judge.

The eternal principles of truth, justice and right are written on the hearts of all good men. Those principles grow with the growth and strengthen with age in the minds of every great lawyer and good judge. Those principles constitute the only legitimate fountain of the law. All cases that are rightly tried must be tested by those principles.

A great lawyer necessarily must be a good man: A good man is not necessarily a great lawyer. Mere goodness loaded down with vast knowledge of legal abstractions, cases and learning, without correct discrimination and clear judgment, is of no account in the practice of the law or in service on the bench. A man who has been for a long time actively engaged in the practice of the law and who always has manifested, potentially and promptly, keen discrimination, clear judgment and the possession of all the knowledge of the law which his cases required, has made a practical demonstration that he is a great lawyer. Viewing what Colonel George has done as a lawyer, and considering it fairly, it must be conceded that he is entitled to be classed with the great lawyers who have given credit and character to our state.

It now remains for us to consider Colonel George with greater particularity as a politician and as a most valiant champion of the Democracy. We do this not only for the vindication of his memory but for the lesson it affords. We do this in order that the heroic courage and devotion with which he and his associates, in the dark and gloomy days of continuous defeat, upheld and defiantly waved the Democratic flag in the face of overwhelming hostile hosts, may inspire the Democracy of today and tomorrow, and enable them to realize the value of their faith.

Colonel George, in his political discussion, always told the truth and the whole truth, without respect to persons or parties, oftentimes in such caustic terms as to give offence to political opponents, and sometimes his remarks were too pungent for doubtful Democrats; but to "the tried and true" his voice and appeals sounded like a trumpet call, and they were on duty at once and the line of battle was speedily formed. In paying our last respects to him as Democrats and in considering what he did in behalf of our cause, let us not do him injustice by failing to characterize truthfully the political heresies that he fought all his life, and by failing to give due prominence to the sound doctrines which he labored to establish.

Colonel George first entered upon active political service in the campaign of 1847. The defection of John P. Hale from the Democratic ranks, in 1845, had enabled the Whigs and Abolitionists, by a coalition, to capture the government of the State of New Hampshire for the year 1846, and to elect Anthony Colby, governor, and John P. Hale, United States senator. In the grand struggle of 1847 the coalitionists sought to retain what they had won and the Democrats to regain what they had lost. The contest was hot and bitter; the ground was fought over inch by inch. The country was then involved in the war with Mexico, and the then existing Democratic administration of James K. Polk was violently assailed and denounced as having unconstitutionally begun that war by a wanton invasion of Mexican soil. The Whigs and Abolitionists openly urged that the Mexican people "should welcome our invading soldiers with bloody hands to hospitable graves." The statesmen and military men who were prominent in upholding the war were loaded with

abuse. The vocabulary of our language was ransacked and all its words most expressive of venom and hate put in use. Even Zachary Taylor, a plain soldier, of few words, of simple habits, of indomitable bravery and unquenchable patriotism, was reviled. He was stigmatized as "a slaveholder who raises men for the market and women for the hells of New Orleans, and who riots on the ruin of souls for whom the Man of Sorrows died." On the other hand the Democracy were awake. The fires of patriotism blazed all along their lines and illuminated the whole political horizon. Their country was engaged in a war with a foreign foe and must be sustained.

They maintained the justice of the war and upheld the administration in its prosecution. They charged their opponents with giving aid and comfort to the public enemy, and with being the same party, which, under a different name, sympathized with Great Britain in the war of 1812, burned blue lights on the coast to guide the war-ships of the enemy into our ports, held the Hartford Convention, and there plotted revolution and the dissolution of the union of the states.

In this vein, newspapers and stump speakers on one side and the other made things lively all over the state. Men went to the polls and voted according to their individual convictions, prejudices and preferences, without the intimidation, bribery and corruption, which, in later times, have caused thoughtful men to tremble for the perpetuity of the republic. Young George, full of youthful ardor, animated by the aspirations of a noble ambition, was prominent throughout the campaign, and won distinction. In those days there were strong men in the ranks of the Democracy of New Hampshire. Not to speak of those of mere local fame, there were veteran politicians, jurists, and statesmen, who had won a national reputation. There were Levi Woodbury, Franklin Pierce, Charles G. Atherton, Isaac Hill, Henry Hubbard and Edmund Burke, who, by their labors either in editorial chairs, on the bench, in the cabinet, or in the halls of Congress, had acquired a high position among the foremost throughout the length and breadth of the Union. There were young men also at the front, and just coming to the front, of brilliant promise, like Harry Hibbard, Samuel H. Ayer, and

others of kindred type. Colonel George learned his politics and formed his political opinions in the school where these men were teachers and leaders. He was taught that political opinions are to be based upon conviction and are not the legitimate subject of change, as circumstances or policy may seem to require. He embraced the doctrines of the Democracy because he was convinced of their truth. His faith was not hidden under a bushel. His voice was ready to defend Democratic principles whenever and wheresoever assailed. He believed that the sovereign power is inherent in the people and that by them only can government be rightly ordained; that the Federal Constitution was ordained by the people and grounded upon concessions and compromises; that the parties to such concessions and compromises were not only bound by law but common honesty faithfully to abide by them; that the federal government had the powers given and the states had the powers reserved by the Constitution; that states were equal and that individuals were equal.

Colonel George specially loathed and never forgot to denounce the canting hypocrisy of the pretences under which the opponents of the Democracy ambushed themselves in the darkness of oath-bound secrecy.

Animated by the convictions of his early training and his native sense of patriotic duty, he could only look with abhorrence upon the cold-blooded wickedness that for mere partisan ends trampled under foot the most sacred guarantees of the Constitution, by stripping naturalized citizens of their rights and invoking the destroying fanaticism of religious intolerance. The enemies of the Democracy did not long masquerade under the Know-Nothing banner of religious hate and race animosity, but soon ceased persecuting the naturalized citizen, and turned their efforts for securing political power to violations of the fundamental law, in another direction and upon other victims. They sought to compensate the naturalized citizen for the wrongs they had done him by inviting him to join them in a revolutionary assault on the rights by the Constitution reserved to the states. The domestic institutions of the southern states, lawfully existing and intimately interwoven with the very network of society

there, and as old as that society itself, were made the pretext for arousing one of the most fanatical and extraordinary crusades for political power ever recorded on the pages of history. War was declared against the Union and the Constitution because they protected the existing institution of slavery the same as they protected the other established institutions of the land. The Constitution and the Union were stigmatized as the slaveholder's constitution, the slaveholder's union. William Lloyd Garrison, one of the most powerful newspaper and essay writers of this or any other country, annually, on the 4th of July, went through the ceremony of burning the Constitution of the United States, and at the same time denouncing it "as a covenant with death and an agreement with hell." The most accomplished orator of his time, Wendell Phillips, with an eloquent tongue, apt in persuasion, pathetic in appeal, most fierce in denunciation, was a leader — perhaps I ought to say the leader — in this crusade. Bold and intrepid, he was in advance of all others, and furnished the theories and arguments which lesser enthusiasts retailed everywhere. His fiery eloquence, poured forth in impassioned denunciations of slavery and the South, of the Union and the Constitution, was as fervid and untiring as that of Peter the Hermit, while arousing Christendom to rescue the Holy Land from infidel hands. He hailed with rapture what he termed the first crack in the Union, and rejoiced with exceeding great joy as he saw that crack widening and promising a permanent division. Far more sensational and scarcely less potential were the extraordinary harangues of Henry Ward Beecher, on the stump, in the lecture-room and from the pulpit.

Horace Greeley, and thousands of other editors, each more or less formidable, together with a majority of all the pulpits in the country, joined in the general hue and cry. Anti-slavery newspapers, poems, and literature of every conceivable character swelled the storm that deluged the land. The Constitution and the Union were termed *"The bondsman's chains."* The flag of the country was styled *"Hate's polluted rag."*

It was not merely the government and the laws that were to be overturned, but the Bible and God himself were to be revolutionized. A leading anti-slavery orator said "the time has

arrived when we need and must have not only an anti-slavery Constitution, but also we must have an anti-slavery Bible and an anti-slavery God.'' Such extravagance and threatened violence was met in kind by the South. Border ruffianism in Kansas and John Brown raids in Virginia soon followed. In those days of wrath and fury the Democracy cried aloud for peace. They strove to avert the impending storm, to revive a sense of the value of the Union and the Constitution, and the inevitable calamities that must follow their overthrow. Colonel George, then as ever active, aided by his Democratic associates, tried hard to stay the torrent and awaken some idea of the danger ahead. Their efforts were treated with scorn. They were met by retorts such as ''let the Union slide,'' with epithets ironically given such as ''Union savers''; with epithets contemptuously given such as ''doughfaces'' and ''minions of the slave power.''

In 1860 a president was elected upon a platform, of which the principal plank was a denial of the rights of the South under the Constitution, as definitely construed by the Supreme Court of the United States. The Southern people, alarmed by the threatened revolutionary denial of their rights, stung to madness by the constant vituperations of the Northern press, pulpits, and politicians, and justified, as they claimed, by the election of a president pledged to carry out such denial, committed the supreme folly (not to say crime) of attempting to escape the consequences of the threatened adverse revolution by becoming themselves revolutionists and rebelling against the existing government, which government, if they had supported and upheld it, would have given them full and perfect protection in all their rights.

The terrible war that followed is now over and its causes, events and chief actors have passed into history. The impartial historian must determine how far the faults on one side and on the other contributed to it, and how far the situation itself tended towards making the war inevitable. The war ended with consequences more fortunate than the most hopeful could have anticipated. Freedom was not lost. The soldiers of the North and the soldiers of the South fought themselves into mutual respect for the valor and honesty of each other. They are

friends. It is only the stay-at-homes that have sought to perpetuate the vindictive passions of the war. Today, however, appeals to sectional hostility have ceased to be available factors.

Colonel George, in his lifetime, always charged, and if living now would charge, that the Republican party was fundamentally wrong in its origin; that it was founded upon the revolutionary idea of denying to the South a constitutional right; that its attainment of power in the nation, pledged to that idea, gave to the Southern people the only tangible reason they ever had for their madness in seceding and involving the country in civil war, and that the Republican party always was an unpatriotic and sectional party, seeking its support from the Northern states only. I maintain that these charges were true and that history must sustain them. Colonel George in uttering these truths in behalf of the Democracy, in the midst of great popular excitement and in defiance of the maledictions of formidable opposition, manifested the manly courage and the outspoken fidelity to truth that always characterized him in the maintenance of the right.

A great change in the society and in the pursuits of its members has occurred in the South, by reason of the war. In consequence of that change reliable leaders for the Democracy are now looked for in the North and probably for some time to come will be looked for there. The proud, high-toned southerner of the past is extinct or rapidly becoming extinct. In place of him we have a new class of men before unknown in the South, entering into the race for the almighty dollar and for material development, with a zeal born of a realizing sense, acquired by their recent experiences, of the humiliating impotency of poverty.

A people, who, in the late rebellion, with few men and little money, for a long time withstood vastly superior forces, have flung away the weapons of war and have gone to work in agricultural fields, in manufacturing industries, and in trade, with impulses as fiery, courage as devoted, and constancy as persistent as that with which they fought at Gettysburg and Antietam. They have resolved to become rich. It is certain that this passion for wealth thus awakened in the Southern people, stimulated by the sure profits that come from developing opulent resources, will

grow, and money-getting is about to become the absorbing business of the whole population.

In the meantime where will be the old-time chivalry of the South — men who nurtured "that chastity of honor which felt a stain like a wound," men who scorned to use official influence for private advantage, whose pride made them incorruptible?

Under the new order of things, the white citizens being devoted to the acquisition of wealth, and the negro voters, for the most part, being the unresisting victims of intimidation and bribery, it is not reasonable to expect that the South hereafter will produce George Washingtons, Thomas Jeffersons, Andrew Jacksons, John C. Calhouns or Henry Clays. Such men are not reared in a society controlled by the money-getting element. If hereafter that class of men are to direct federal affairs they must be produced at the North. Already, with the assent of the South, the government of this vast republic is practically under direction of the northern Democracy, and there, according to the signs of the times, it is likely to remain for an indefinite future. We ought to realize the weight of the responsibility that rests upon us. We ought to remember that we are American citizens and sovereigns of one of the most powerful nations on the earth, that there is not in this world any position more grand and dignified than the one we occupy. We ought to remember, when as sovereigns we appoint our public servants that we must be true to ourselves if we would have our public servants true to their trusts. In seeking the wisdom needed to guide us in this work we cannot do better than to study such examples as the life of Colonel George affords. His example illustrates the adherence to fundamental principles, the zeal in their maintenance, the singleness of purpose and the independence that characterizes the true disciple of the Democratic faith.

The result of the presidential campaign of 1884 put it in the power of the Democracy to give recognition to those who had done them faithful service, and Colonel George became a candidate for the naval office at Boston. He was not appointed. No complaining murmur escaped his lips. He was silent over his disappointment, but we know that he must have felt it keenly and deeply.

"The flesh will quiver where the pincers tear,
The blood will follow where the knife is driven."

However, individually, we may have acted in this matter, I believe that we all would have been glad if this cup had passed from him. With Spartan firmness he bowed to the inevitable.

He was a man of "cheerful yesterdays and confident tomorrows," and could no more stay himself from active work than the mountain torrent can stop its floods in their course. He continued in his lifelong habits of thought and action, and did his accustomed work with the old time vigor. If his life and strength had been spared until today we should see him in the grand presidential struggle now just commenced, where always he was wont to be, in the front rank, face to face with the foe, steadfastly upholding the cause of the Democracy. He was especially well qualified to elucidate the tariff, the great question involved in the present contest. In his early political career he took part in the discussion of this question before a former generation of voters. It was then determined, after full discussion, that paying taxes on goods for the benefit of monopolists does not cheapen them to the consumer; that competition is the life of business, and that the freer and less hampered men are, the better is their chance for success. When the Civil War broke out it was and had been for a long time the settled doctrine of the country that trade should not be hampered with taxes to raise money beyond what was necessary for the support of the government. To meet the expenses of the war heavy taxes were imposed upon imports with the express understanding that they should be reduced accordingly as the call for revenue diminished. Those heavy taxes for a long time have been raising money largely in excess of the wants of the government, and hoarding up the money of the country in the vaults of the treasury of the United States, and yet the specious argument and deceiving catchwords of the monopolists hitherto have deluded the present generation of voters and prevented any reduction of taxes. Colonel George, with his scathing logic and vigorous reasoning would have been an effective worker in demonstrating to the popular understanding the folly of taxing trade merely for the purpose of curtailing and prohibiting it. But "the pitcher is

broken at the fountain''; his sinewy arm is stiff and cold, his voice forever silenced. The wear and tear of life has done its work, and Colonel George is now only a name and a memory.

He kept the field with the old time vigor until the spring of 1887, when his powers suddenly weakened. He could no longer concentrate his intellectual resources at will and throw them with lightning-like force upon the subject in hand. He had hopelessly fallen into the decrepitude of age.

> "Age must fly concourse, cover in retreat
> Defects in judgment and the will subdue,
> Walk thoughtful on the silent, solmn shore
> Of that vast ocean it must sail so soon."

His enfeebled faculties were still in even balance and he was rational. He was alive to the calls of friendship, and kept up his old habits of hospitality. With equanimity he made preparation for the last great change which soon came.

In religion Colonel George was liberal. He did not annoy other people with his religious opinions nor ridicule theirs, however absurd they might seem to him. He realized that the human mind has a circumscribed scope, and he held it to be folly for men to contend in regard to questions that can be determined only by evidence which lies beyond the limits of their powers. But his philosophy was not shallow enough to make him an atheist. It went deeper than that. He could see that the finite is everywhere bounded by the infinite, and that the Ruler of the infinity which surrounds us must have powers as boundless as the sway. His philosophy went deep enough to find evidence that satisfied him that there was a Being, above all other beings, who ruled the universe.

Colonel George had a long period of active, vigorous life, though his years fell short of three score and ten. His season of decrepitude was brief. We who have been associated with him, and been accustomed to seeing him on the lead, in view of the certainty that he only just precedes us in crossing the dark river, may well exclaim in the words of another on a different occasion: ''Go, brave heart, as thou hast been wont to go and we will follow thee.'' He has left his mark on his day and generation. and hereafter he will stand forth in tradition and in

history, a typical man from the indomitable phalanx of the Democracy of New Hampshire, and his name and memory will remain a bright jewel to adorn the state.

TRIBUTE TO THE MEMORY OF GEN. GILMAN MARSTON.

DELIVERED BEFORE THE GRAFTON AND COÖS BAR ASSOCIATION AT THE ANNUAL MEETING AT WOODSVILLE, N. H., JANUARY 30, 1891.

Mr. President and Gentlemen:

I knew General Marston very well in his lifetime, and had considerable intimacy with him, and perhaps it may be reasonably expected that I should be able to discuss his character. I was asked to say something on the present occasion in reference to General Marston's capacity and character as a legislator, limiting what I should say to the consideration of him in that particular. It is impracticable to speak in a given particular of a man's character without having in mind to a large degree his general character.

I think it is too much the practice in discussing the characteristics of a deceased friend to bury his real qualities underneath a mass of glittering generalities and fulsome eulogy; in that way we lose sight of his identity. When we discuss the character of a good and brave man it is a just analysis of his character that he deserves, not a mere indiscriminating laudation.

In speaking of General Martson, my first proposition would be that he was a man of integrity, that his love of country was stronger than his partisanship, that selfish interests could not control him where principle was involved, that no mercenary considerations however great could bribe him to forfeit his self-respect and become dishonest.

That he was a man of integrity his fellow citizens, who met him daily all his lifetime, know. The bar, before whom he went in and out for a period of half a century, know. His clients know. The soldiers that served under him knew it. President Lincoln and his cabinet knew it. And in fact, although his position in the army was not of a very high grade, he was re-

peatedly sent for and consulted during the war by the president, Mr. Lincoln, and by the secretary of war, Mr. Stanton, in regard to the affairs of the army, and he was consulted especially as a man upon whose judgment and account of what was going on they could rely. His associates in Congress and in the New Hampshire Legislature knew his integrity. That love of country was stronger than partisanship; that selfish interests could not control him when principle was involved is shown by his action throughout his political life. He did not hesitate to speak out at all times, and on all occasions, what he thought, however it might affect his whole political prospects in the party to which he belonged.

That mercenary considerations could not shake his character and make him dishonest is another proposition. I recall a story which he told me himself, and which I have heard from other sources, and which I do not doubt. During the time he was in the military service he was put in command of Point Lookout and had charge of a very large number of rebel prisoners. He was furnished with rations for the prisoners similar to what was dealt out to the soldiers in actual service — hardtack, salt beef, and salt pork in large quantities, but the soldiers when doing nothing had not much appetite for that sort of food, and so he disposed of much of it, and being near the truck gardens of Norfolk, where vegetables were very cheap, he bought those for his prisoners, and they grew fat, hearty, and jolly. When he got through his term there, he had a large sum of money wich the provisions he had sold had brought, over and above what he had bought, cost, somewhere between one and two hundred thousand dollars, and he went up to Washington to settle his accounts with the auditor there, and drew out this money. The auditor said, what is that? and he told him. The auditor said, I never heard of any such thing as that before in all my experience in settling with officers. General Marston might probably have pocketed and brought home that large amount of money, and inquiries would never have been made. Many men, perhaps, situated in the army as he was, would have carried it home, but General Marston could not afford to pocket his self-respect and become dishonest by taking that money.

Second, I claim that General Marston was a brave man. His courage was not the courage of the unthinking horse that rushes blindly into the jaws of death, but his courage was a fixed purpose that carried him unfalteringly wherever it was his duty to go. The Duke of Wellington once saw one of his officers in a very dangerous position; saw him turn pale, then resolutely face the danger and march up to his work. The Iron Duke said, "That is a brave man, he knows him danger, and faces it." I have been told of a circumstance occurring to General Marston. I was not told this by him, but by another,— that on one occasion he was left in command of some raw recruits, in a portion of the field which was very much exposed, and with but imperfectly thrown up defenses. The bullets began to whistle around pretty lively, and the men began to develop a panicky feeling, and it was quite evident that a panic was imminent. At this point General Marston walked forward upon the most exposed part of the parapet, and taking out his glass deliberately took a view around, then walked to the other end of the parapet and took a view and then walked back to his original position, and on looking around he saw that every man was in his place ready for duty; all signs of a panic had entirely disappeared.

There are those, and some of them among General Marston's very best friends, who, while they concede to him physical courage, claim that he was lacking in moral courage, and they claim that this accounts for his political actions on many occasions, and for his falling sometimes under judicial influence in matters of legislation. I take the ground, however, that General Marston had both physical and moral courage. He opposed unscrupulous partisanship inside his own party, and he did not halt in that opposition until he had reached the extreme where further opposition would rob him of his power to resist evil. Because he did not continue the fight until thrown outside his party, they said he lacked moral courage. The reason as I interpret it was not because he was afraid, but because he did not think it wise. If he had longer continued his objections on those occasions he would have thrown himself out of position in his party, and his power to lead it in right directions would have been lost. General Marston's physical courage did not lead him to expose himself

unnecessarily and rashly; he stepped boldly to the front and defied the leaden rain and iron hail only when duty called him and when it was necessary to inspire his soldiers with confidence and steadfastness in the discharge of their duties; he did not expose himself when nothing was to be gained by it. He combatted what was wrong in his party, and did not cease until he carried his point, or until further opposition became rashness and folly. I remember in the Legislature of 1881, when for some purpose an opinion was procured from our Supreme Court giving a construction of the federal law as to the election of United States senators different from what the Senate had settled by repeated adjudications. General Marston on that occasion broke ground, and was the leader in opposing this attempt to over-rule the action of the United States Senate. He fought it, and there was no fooling about it either. He defied the opinion of the court, and he defied the party that procured it. He carried his point, and there was no halt until he had carried it. I think it may be said truthfully that the General never desisted from political warfare until it had reached the point where on the whole it was wise to desist.

And here I will speak more particularly of a third element in the character of General Marston — a most essential element in statesmanship, and without which no man can be a statesman — and that is, a wise discretion that sees accurately the whole situation, and in working for desired ends knows how far to go in a given direction, and where to stop,— a discretion that keeps within the limits of what can be accomplished. I think General Marston had this discerning sense in a high degree. It, with his sturdy honesty, his courage, and his patriotism, would have brought him all the honors of statesmanship if a broad field of action had been given him.

I come now to the particular in which I was asked to speak, that is, his character as a legislator, and I can only say that the characteristics that I have been mentioning were manifested by him here. In the main he had a friendly understanding with the judiciary, upon whom the responsibility of interpreting the law rests. He had a clear and comprehensive knowledge of the various interests of the state, and could judge well as to what

legislation, if any, was needed. He did good service in keeping mischievous and useless legislation off the statute book, but when an evil actually existed he readily conceived the appropriate remedial legislation. The famous tramp law is a monument of his sagacity in this respect. All of you probably call to mind the situation of the state at the time of the passage of that law. We were literally overrun with tramps; they were everywhere, in all the streets and in all the houses, and everywhere they were annoying everybody, and what to do seemed to be a puzzle; nobody seemed to know how to get rid of this tramp nuisance, and then General Marston brought forward his tramp law, which provided that tramps should be severely punished; and as it was brought forward many doubted its efficacy. It was suggested that the severity of the punishment would react and create a popular sympathy; but the law was enacted, and the result was that the tramps disappeared like mist before the morning sun; we did not hear of any more tramps. It was exactly the legislation needed.

I do not know as I can make any further suggestion upon this particular branch of his character, and in conclusion I think it may be said generally of General Marston that whatever positions during his long life he was called upon to fill he acted his part well, and we have every reason to believe that if he had been called upon to fill the highest and most responsible position that the people can give he would then have acted his part well. We may truly say that he was a brave soldier, a true patriot, a wise legislator, a statesman, and above all that he was that "noblest work of God," an honest man.

NATHANIEL W. WESTGATE.

Remarks by Mr. Bingham at the Meeting of the Grafton and Coös Bar Association at Woodsville, N. H., January 30, 1891.

Mr. President and Gentlemen of the Bar:

I do not feel that I can speak in regard to Judge Westgate as he deserves to be spoken of. My attention was called to this matter only recently, and since then my time has been so much engaged that I have had very little opportunity to formulate any systematic remarks. When the news came of the death of Judge Westgate it perhaps struck me more forcibly than it did most of you, for it was the removal of the last landmark between the bar of our county as it is and as it was when I first knew it. He was the survivor of all the members of the bar of Grafton County living at the time I commenced practice. That was the year 1846, and at that time Grafton County had many strong members in its bar. I do not know but the men of the present day are fully equal to the men of that day, but, without discussing that question, I will call attention to some of the men who were then in the Grafton County bar. First, there was Judge Wilcox, of Orford, a distinguished lawyer, well known throughout the state, and who since then has been upon the bench, distinguished himself there, and passed away. Judge Woods, a strong man in the law, and then upon the bench. Goodall and Morrison, well known names, doing an important and extensive business, and known everywhere in financial and legal circles. Harry Hibbard was then in the full bloom of his successful career in the law and in politics. Henry A. Bellows, then of Littleton, was in the front rank of the bar; distinguished for industry, urbanity and ability, he afterwards as chief justice of the state adorned the bench. Joseph Bell had just removed from the county and the state, leaving behind him, at Haverhill, Charles Thompson, Mr. Felton, and others. At Hanover was Mr. Duncan, one of the most accomplished men that ever lived

in this state or any other, and he was then in full strength and had a successful practice; also Mr. Blaisdell was there, with kindred accomplishments. At Lebanon was Mr. Blaisdell, senior, who passed away before many of you can remember. Going on to Enfield, there was Judge Westgate, who was in active practice. At Canaan, was Judge Kittredge. They used to call him "Old Kit." He was a man of legal and scholarly learning. I think I have heard him make some of the most effective arguments to the jury and court that I ever heard. Then there was William P. Weeks, who divided with Judge Kittredge the legal practice in that vicinity. In the eastern district at Rumney was that able and vigorous lawyer, Josiah Quincy, and at Wentworth, J. E. Sargent, afterwards for a long time one of the associate justices of the Supreme Court and finally chief justice. Then at Plymouth was Mr. Thompson, and there were others in that district who were strong men. Mr. Westgate was the last representative of the bar as it was first known to me, and as it was known to me for many years.

I have seen these men with each other trying cases, and I have tried cases myself with them, and they were able men. Judge Westgate had a long life; born in 1801, he died in 1890, in his ninetieth year;—"the days of the righteous are long in the land." No untimely frost cut him off; as the ripened corn is gathered in the harvest time, so has he at the end of his days passed to his final rest.

Human life at the longest it but a span. This idea has been repeated in one form and another since the world began, and ought always to be ringing in our ears; and yet so much does this world, its cares and its troubles, its hopes and its fears, its labors and its honors engross our entire being that when one of our number is stricken down, it sounds new and startling. The more sudden the blow the greater the shock. My memory goes back to the time when Ezekiel Webster, brother of Daniel, dropped dead in the court house, and the remark of Mr. Sullivan, "What shadows we are and what shadows we pursue!"—merely the idea I have stated, that has been repeated over and over again, yet repeated on that occasion it had a wonderful force and struck the people with most startling effect. Not so with

Judge Westgate; he died not suddenly, not unexpectedly; he died full of years, and full of honors, yet his life, character and death, just the same, open a field for comment by the moralist and the philosopher. I think that the words of the inspired Psalmist may be most properly quoted and applied to Judge Westgate and to his character: "Mark the perfect man, and behold the upright, for the end of that man is peace." Judge Westgate, by his staid deportment, by his just comprehension and measurement of what was going on around him, by his sound judgment and integrity, demonstrated that he was one of the solid men that constitute the pillars of all wholesome society. The influence of such men is so quiet and unobtrusive, and under their direction the community moves along so orderly, that I have often thought their worth was unappreciated. Particularly have I thought this to be true of our own state.

Judge Westgate was born in the town of Plainfield, as I have before stated, in the year 1801, on a farm, and he received his education at the common schools and academy, and studied law, and commenced the practice of law in the town of Enfield, where he continued to build up a good character and reputation, and he remained there until he was called to Haverhill as register of probate, where he has since resided, and where he died.

In my mind Judge Westgate and N. B. Felton are very closely associated. My first knowledge of these men was by reputation, and that was as long ago as I was in college, in 1843. I was in the habit of going down to the east part of Lebanon, where a relative of mine lived, a well-to-do farmer, and a man of sense, who had a sharp eye and was a good judge of property and of men. I recollect in my visits there he told me of Mr. Felton. He said that he had then gone up to Haverhill, but that he used to be at Lebanon, and while he was there he was his lawyer, and he found he could rely on what he told him. He said he had got acquainted with another man then that was his man, down in Enfield, and that was Mr. Westgate. He said he had found him to be equally reliable, and that when he had occasion to use a lawyer he went to Mr. Westgate, and that he was a good man and had a large and extensive business. In my judgment the town of Haverhill has had in the past very many distinguished

citizens; citizens distinguished in the law and citizens distinguished in other walks of life, but I am sure that the memory of none of them is entitled to or deserves more profound respect than the memory of Judge Westgate, and of N. B. Felton.

HON. WILLIAM SPENCER LADD.

A Memorial Address Delivered Before the Grafton and Coös Bar Association at Plymouth, N. H., January 29, 1892.

The everlasting laws of the universe never change. They were the same yesterday as today, and will be the same tomorrow and forever. "One generation passeth away and another cometh." The billows of the ocean do not succeed each other more constantly than the generations of humanity follow one another. Apparently changes are going on unceasingly all about us; every day brings something new, something different from what has been, and yet we know what the wise man has said is the truth: "The thing that hath been, it is that which shall be, and that which is done is that which shall be done, and there is no new thing under the sun."

The great reaper, Death, is gathering his harvests, as he has gathered them, as he will gather then forevermore. He has just cut down a strong man, one of our number, the Hon. William S. Ladd. Our esteemed brother has been cut down in the very midst of his honors and his usefulness, before he had lived the number of days ordinarily allotted to man, and while we were anticipating for him long years of life yet to come.

> "Leaves have their time to fall
> And flowers to wither at the north wind's breath,
> And stars to set; but all,
> Thou hast all seasons for thine own, O Death."

It is our purpose to leave upon our records, a memorial of the life and character of our departed friend, brief, frail and inadequate though it be.

William Spencer Ladd was born at Dalton, on the 5th day of September, 1830. His ancestors belonged to that old, rugged

New England stock who have done so much towards clearing away the forests, planting civilization, and rearing those religious, political, and educational institutions which have made our country what it is today, that old, rugged New England stock, who have furnished so many pioneers and statesmen for the country at large; who have supplied every state in the Union with pillars and ornaments to uphold and adorn the bar, the bench, and the pulpit. There is no prouder ancestry of which any man can boast. Of all the powerful and energetic races that have found homes in the vast regions now embraced within the United States of America, none have made an impress upon the character, habits and institutions of our people so broad, deep, and lasting as that which has been made by the strong, hardy, and progressive race who first planted European civilization on the bleak hills and rock-bound coasts of New England.

Though Judge Ladd came of New England stock, yet New Hampshire may well lay exclusive claim to him. Upon a New Hampshire farm, within the shadows of her granite hills, he was born and passed his boyhood days. While compelling her reluctant soil to yield the fruits of the earth, he acquired those habits of industry and steady perseverance that so well stood him in hand in later years. Breathing her pure air amid the grand scenery of her majestic mountains, his mental strength and bodily vigor grew together, and he came to manhood with a sound mind in a sound body.

In the midst of these stimulating surroundings his youthful ambition was aroused, and he early conceived the idea of gaining that honorable distinction which he afterwards attained.

He received his academical training at New Hampshire schools and at her college. He studied law and became an eminent practitioner of the law, in the county of his birth. While yet a young man, he was selected from the bar of Coös County for one of the justices of the highest court in the state. In that position he gave early exhibition of the breadth and strength of his grasp of the law. The New Hampshire reports contain the monuments that attest his industrious research and the clear, comprehensive judgment that made proper application of the results of that research. When his judicial career on the bench

of the courts of New Hampshire terminated, he again became an untiring worker at the bar of her courts. He was a legislator in her halls of legislation. He sat in her Constitutional Convention, a member well equipped with knowledge of what the fundamental law of a state ought to be. He has been the reporter of the decisions of her Supreme Court, and in that capacity he has done his work most promptly and efficiently. He has been upon committees constituted for the purpose of inquiring into the evils that afflict the state, and for the purpose of devising wholesome legislation to remedy those evils. With his many sided capabilities, he has had something to do with almost everything. The business community around him called for his services in financial matters, and imposed upon him the duties of a bank director. Associations for social improvement and for elevating the standard of human conduct received his hearty support. Whatever he undertook to do, he attended to it with zeal, fidelity and efficiency.

His labors are finished, and New Hampshire furnishes him his last resting place. In her bosom "he sleeps the sleep that knows no waking."

The leading facts in the life of Judge Ladd are more or less familiar to us all. He had his preparatory course for college at the New Hampshire Conference Seminary at Sanbornton Bridge, now Tilton, and was graduated at Dartmouth College, in the class of 1855. He then entered upon the study of the law, and completed the preparatory course for admission to the bar, in the office of Messrs. Burns & Fletcher. He was admitted to the bar at Lancaster, in the year 1860. He very soon opened an office at Colebrook, and the numerous clients that flocked around him, without much waiting on his part, made him a busy man.

He married, in the year 1860, Miss Almira B. Fletcher, a most estimable lady, the daughter of Hiram A. Fletcher. She has stood by him as a faithful helpmeet, carrying her full share of the burdens and responsibilities of married life. They have reared a promising family of children, two sons and a daughter. Her father, the late Hiram A. Fletcher, was an old and distinguished practitioner of the law, and though he died some time ago, yet his name still sounds familiar in the ears of the people

of northern New Hampshire. He was actively employed in his day, and had a large influence over the business community around him. He was noted for his industry, his legal learning, and his quaint peculiarities. He is entitled to a prominent place in the annals of the Coös bar.

Judge Ladd soon found that the boundaries of extreme northern Hampshire were too narrow for his large and growing practice. He yielded, no doubt with reluctance, to the inexorable demands of business, and sought a larger sphere of action. He must have parted with regret from the fair and fertile fields of the far away upper Coös, from its grand and beautiful scenery, its picturesque Dixville Notch, and its frowning Monadnock.

In the year 1867 he left Colebrook and settled at Lancaster, the inviting metropolis of northern New Hampshire. Lancaster, the "vale in whose bosom the bright waters" of the Connecticut and Israel rivers meet. Lancaster, whose valley is so sweet, fertile and beautiful that "the bloom of that valley" drew the whole original township up the river several miles beyond its chartered limits. Lancaster, whose early inhabitants have left on its population of today the visible impress of their elevated tone and manners.

At Lancaster Judge Ladd found a congenial home for his family and a profitable location for his business. He entered into a partnership with our brother Hon. Ossian Ray who has just passed away. By his death we lose another pillar and ornament of the profession.

Mr. Ray was then in the full flush of popular favor, in law and in politics. He has since been in Congress two or three terms, and came out of it with his reputation untarnished. Death has overtaken him in the midst of his usefulness and with his good standing before the people fully maintained.

The firm of Ray & Ladd was a strong one, and soon acquired a reputation which brought clients in crowds, and business in abundance. Important litigations involving large interests were committed to their hands, and were conducted so satisfactorily that the demand for their services rapidly increased.

While the firm was thus absorbed in the cares and responsibilities of their large and growing practice, Mr. Ladd was appointed

one of the justices of the Supreme Court. He entered upon his judicial duties in the year 1870, and by his untiring industry, patient research and sound judgment soon demonstrated his fitness for the place. He had hardly got fairly installed on the bench, before some of its most burdensome tasks were placed upon his neophyte shoulders. The reports show that he was equal to the work assigned him and that his first efforts in the elucidation and solution of difficult problems of the law were successful. When this court went out of existence and a new court was created by legislative enactment in the year 1874, he was appointed one of the justices of the new court. He filled that position with increasing honor for two years, and until this new court was in its turn abolished, and gave place to still another court. Judge Ladd then stepped down and out. Everybody knew and acknowledged his untiring industry, strict impartiality, capability and unimpeachable integrity, and yet the unreasoning and capricious behests of partisan folly ruled the hour. He was refused an appointment as one of the justices of this new court, and thus the state was robbed of his invaluable services on the bench.

The unjust dismissal of a man like Judge Ladd from an office that he has filled with such personal sacrifice, with great ability, with honor to himself and usefulness to the public, may give him some slight twinges of unpleasantness, in view of the gross ingratitude of such treatment, but there must be ample compensation in the relief given him by such a dismissal. He is excused from the burdens of official life without any fault or shirking on his part. Thenceforth he can pursue happiness in his own way and do good untrammeled by the imperious obligations of official duty. The poor, cheap demagogues, who by partisan pretexts instigate the people to dismiss an able judge of well-tried purity and uprightness, and substitute in his place somebody as poor and cheap as themselves, deserve and will receive the execrations and contempt of all coming time.

Once more having himself and his labors at his own disposal, Judge Ladd resumed at his home in Lancaster the practice of the law. Old clients and new clients gathered around him in large numbers. He entered into a partnership with his brother-

in-law, Hon. Everett Fletcher, and up to the close of his life the firm of Ladd & Fletcher maintained an extensive and profitable business. He was called more or less, either as counsel or referee, to go into all or nearly all the counties of the state. His services were especially sought after as referee and also as advisory counsel. In both those capacities he was well qualified to do good work. His industry never flagged. He responded with alacrity to all those calls from his fellow citizens which every community is always making upon its trusted and valued members.

He was one of the representatives from Lancaster in the New Hampshire Legislature of 1883–84. Here he took a prominent part in the debates, and labored diligently and conscientiously to secure such legislation as he believed the public necessities demanded. He also represented Lancaster in the convention of 1889, for the revision of the State Constitution. He was a leading member in that convention and active in its debates. He especially took ground against the proposition to incorporate in the Constitution a prohibitory liquor law. He maintained by unanswerable arguments that such a proposition was out of place in the fundamental law; that it was a matter within the scope of the police power of the state, and that the only appropriate action upon the subject must be had in the Legislature by legislative enactment. His arguments, good and sound as they were, did not convince that body. An amendment embodying the proposition was submitted to the people; but he had better luck with the people. They differed from the convention and agreed with him. They rejected the proposed amendment by a large majority.

Judge Ladd was appointed one of the members of the forestry commission, under the legislative enactments upon that subject in the years 1881 and 1883. He took, as I understand, a prominent part in its labors. That commission, after an extended investigation, made a very elaborate report to the Legislature of 1885, in which the character and extent of our forests, their present condition, the treatment they were receiving, and the proper mode of preserving them were fully considered. They also carefully demonstrated that robbing our lands of the forest

growth had a deleterious effect upon the soil, the scenery, the rain-fall, and the water supply of the state. This report, and also a subsequent report of the forestry commission made to the Legislature of 1891, ought to be carefully studied, pondered upon and acted upon by everybody interested in the welfare of New Hampshire and her people. The subject is one of vital importance. Every material interest in the state is deeply involved, not only as it respects the question of its prosperity, but as it respects the question of its very existence. If New Hampshire be stripped of her forests, her rivers and lakes will be dried up; the power to drive her manufacturing machinery will be gone; her soil will become barren; her land desolate, and her scenery no more inviting than is that of the desert of Sahara.

Judge Ladd was appointed reporter of the decisions of the Supreme Court, in the year 1883, and after his appointment a marked change in conducting the business of that office was apparent. His habitual industry asserted itself here. All decisions were promptly reported when made, and the accumulated arrearages of five previous years have since been published.

He has been an active member of this Association; the revised declaration of its objects and the revision of its fundamental rules and regulations are his work. Our records show that in the labors and exercises of the Association he has performed his part with efficiency, and set forth upon those records may be found his elevated ideal of professional duty.

There is another remarkable fact that demonstrates beyond a doubt the immense capacity of this man for labor. Amid the multifarious obligations that called for and received his constant attention in almost every conceivable direction, he found time which he devoted to legal literature. In aid of the legal profession he had prepared a book, and had it nearly ready for publication, when the manuscript was destroyed by the fire that consumed his office and law library. I am unable to give the scope and character of that book, but I have no doubt that the loss of any book of that kind which Judge Ladd would be willing to issue and endorse with his name, is a serious loss to the profession.

His Alma Mater conferred upon him, in the year 1878, the honorary degree of Doctor of Laws.

He died at his home in Lancaster, on the 19th day of May, 1891, surrounded by his relatives and friends, and at peace with all men. He had been admonished for several months, of his insecure hold upon life. I remember meeting him just a few days before his death, in the trial of an important cause. The sad premonitory indications of dissolution near at hand were plainly apparent, and yet he paused not in his work. The final summons sounded in his ears while at his post. He looked upon the earth for the last time with his hand on the helm.

Upon a full and just consideration of Judge Ladd's characteristics, and upon an impartial review of what he did and what he would have done had he been permitted, I am inclined to think that his intellectual powers were calculated to do their best work on the bench and not at the bar. On the bench he was the right man in the right place. His obedience to his convictions, his high standard of duty, and his stubborn integrity, made him a power wherever he was, but his intellectual powers shone brightest in the atmosphere of the bench, in responding to its calls for patient research, and for broad and accurate views in applying the law to cases as they arise.

He was placed upon the bench at a comparatively youthful age and was permitted to remain there only six years, and yet in that short space of time he did much towards giving tone and character to our reports.

He considered and wrote out opinions in many difficult cases involving questions of doubt upon which the authorities were conflicting. In these cases and in all other cases where his decisions are written out we can see the facility and ability with which he did judicial work. By his lucid statement he makes the line of his argument plain. The many sources upon which he draws for authorities with which to fortify his positions, coupled with his powerful reasoning, demonstrate the extent and variety of his learning and the vigor of his understanding. His opinions are luminous. You can see his steps as he treads along the route by which he reaches his conclusions. You realize that his tread is the tread of a strong man. Like the ancient lights of the law,

he so illuminates his pathway that you see it and its surroundings, and the end to which it is tending. You wonder at the immensity and accuracy of his research. You feel the weight and force of his reasoning.

Judge Ladd was an important part of the court of which Judge Cushing was the chief justice. That court was of short duration but had it stood a thousand years it could not have had a better established reputation than it had for purity, uprightness, and a just administration of the law. The bar must remember with pleasure the dignified simplicity, the enlightened probity and the just, impartial and consistent decisions of that court; and the bar must see with regret the small consideration given by the public mind to constitutional limitations whereby our courts, whether good or bad, have been made the mere footballs of party politics.

When Judge Cushing's court was abolished, Judge Ladd was denied further judicial honors, because he decided a question in the only way it could be decided without over-turning the fundamental axioms on which our institutions rest. Party leaders were thereby displeased, or pretended to be displeased, and by the adroit use of virulent catch-words referring to that decision, they succeeded in depriving the public of Judge Ladd's services on the bench.

It has always seemed to me that the business of making a man's politics the test whether he shall or shall not have a judicial appointment is a most miserable business. I never could conceive how politics, honestly entertained by an honest man, learned in the law, who would sooner cut his right hand off than pervert the law, could disqualify him for a seat on the bench, or how a mere partisan qualification could be any qualification at all for judicial honors. I am sure that the man who is made a judge on account of his partisan qualifications will always turn out to be a mere trimmer. In a storm he cannot be relied upon to stand by the right for anybody or anything, not even for his own side in politics. Here I desire to quote a few words on this subject which I have said elsewhere:

"A judge, as a judge, has no business with party politics, and has no legitimate use for them. He should never be put on or off the bench because he is or is not a partisan of a particular stripe.

The idea of mixing up a certain amount of political partisanship of one kind, with a certain amount of political partisanship of another kind, and putting the mixture on the bench and calling it an impartial court, would seem, inasmuch as partisanship of any kind is out of place there, to be a gross absurdity. I should just as soon think that profane swearing is necessary to qualify a preacher to give in the pulpit sound gospel preaching, as that political partisanship is necessary to qualify a man for a seat on the bench. It seems to me that it is just as sensible to claim that the pulpit would be all right if it were supplied by a certain number of preachers who can curse one way profanely, and a certain number who can curse the other way profanely, as it is to claim that the court is all right because a part of the judges are partisans of one kind and a part of them are partisans of another kind. Unless some mischievous muddle is required, or somebody is to be humbugged, there cannot be any occasion to constitute a court on such a fundamental theory. There is no sense or reason in holding that you have built up a good thing because you have put two diverse elements in a place where neither of them belongs. There is no precedent for it in nature or in history and none in poetry unless the decoction prepared by Shakespeare's witches in the play of 'Macbeth' be regarded as one. The only legitimate questions to be asked in the appointment of a judge are: Is he honest? Is he capable?''

The dismissal of Judge Ladd from the bench, was, to say the least, a great mistake. He had demonstrated his preëminent fitness for the place. The short-sighted partisans who dictated his rejection inflicted a great wrong upon the people, upon Republicans and Democrats alike. But they failed to do him material harm. They could cause his dismissal from the bench, but they could not stain or obscure the great and spotless reputation he had there acquired. They could not efface his opinions from the pages of the New Hampshire reports. Those opinions remain monuments that attest his industry, learning and ability. Those opinions will go down to posterity bearing on their face the evidence that entitles his name to be ranked among the sages of the law; that entitles his name to be classed with the names of Perley, Bell, Woods, Gilchrist, Parker and Richardson.

The present generation of men in New Hampshire will hold the name of Judge Ladd in respectful remembrance. His family, his immediate relatives and friends will cherish his memory with fondness and pride. His sons, whose known talents give promise of compensation to the public for its loss of their father, will always see before them their father's example beckoning them onward in the path of duty.

His enduring fame,— his fame that will last when the men of today have passed away,— must depend mainly upon what he did while on the bench.

With us of this association his example, his counsels, his works, spread upon our records, remain, but his strong arm no longer guides us. He has passed through the dreaded ordeal into the unknown beyond. Death has been denominated the King of Terrors, and yet the good and brave have always met him with equanimity. It is well that we be reconciled to the inevitable. The cool philosophy that enables the man, firm of purpose and upright in heart, to keep the even tenor of his way amid all the ills incident to his earthly pilgrimage will not desert him at its close. In the hearts of all such men there will be a response to the oft quoted words of the poet Bryant:

> "So live that when thy summons comes to join
> The innumerable caravan which moves
> To that mysterious realm where each shall take
> His chamber in the silent halls of death,
> Thou go not like the quarry slave at night,
> Scourged to his dungeon; but sustained and soothed
> By an unfaltering trust, approach thy grave
> Like one that wraps the drapery of his couch
> About him, and lies down to pleasant dreams."

And if in the hour of final dissolution there be also faith in the promises of Divine Revelation, and if assurance be felt that "though a man die, yet he shall live again," that "this corruptible must put on incorruption, and this mortal must put on immortality," then indeed is the great change most welcome. He who has an abiding trust in these promises can part from the vanities of earth without a pang, and may well exclaim amid the agonizing throes of expiring nature, with an exulting sense of triumph, "O Death, where is thy sting? O Grave, where is thy victory?"

ORIGIN AND THEORY OF OUR INSTITUTIONS—IMPORTANCE OF A STRICT OBSERVANCE OF CONSTITUTIONAL LIMITATIONS.

Opening Address Before the Grafton and Coös Bar Association, at Berlin, N. H., January 26, 1894.

Gentlemen of the Association:

We meet today upon the banks of the Androscoggin. We hear the hum of business and find ourselves in the midst of a teeming population, and thriving industries; in a place, where, a little while ago, forests darkened, and no sound was heard, save the noise of the rushing waters of the majestic river in our front.

The citizens of Berlin ought to be admonished by the fate which recently has overtaken other promising towns in New Hampshire, that whether they wish it or not, the next Legislature may make their town a city.

Naturally enough in this connection, the reflection comes to us that we are citizens of a vast country, bounded on the north by the British possessions, on the east by the Atlantic Ocean, on the south by Mexico and its Gulf, and on the west by the Pacific Ocean; that within the limits of this grand territory there are many immense cities, and a multitude of smaller cities, and thousands upon thousands of just such thriving towns as this town of Berlin, and that industry, thrift, civilization and progress are everywhere manifest.

We may well thank Almighty God that He has placed us here instead of casting our lot among the Turks or the Algerines, or anywhere else except within the limits of this free, great, glorious and progressive republic.

Divine Providence has indeed specially favored us by giving to us for our home a land where liberty, regulated by law, has been planted and made secure.

We are free to think, to speak, to go or stay, to do or not to

do, according to our own good pleasure, always remembering that we must not trespass on our neighbor.

It is not my purpose to consider in detail the history of the origin, growth, and establishment of our laws, institutions, and government, but I will briefly notice the following subjects: First, The origin of our laws and institutions. Second, The theory on which our institutions are based. Third, The importance of a strict observance of the constitutional limitations upon power.

The first proposition involves some consideration of our history at its beginning.

Our ancestors emigrated here from the great body of the people, the commons of England, who had for centuries waged uncompromising resistance to the allied tyranny of King, Noble, and Ecclesiastic, and who at last, had secured an equal voice in Parliament, and placed the personal rights of the English commoner with impregnable muniments, on a solid foundation.

The English colonists who planted civilization on these American shores, brought from home a love of individual liberty and a hatred of tyranny in all its forms. They were familiar with the history of the continuous struggle waged by their Saxon fathers for the maintenance of the people's rights against the system of oppression established by the Norman conqueror, and upheld by his successors on the throne.

They knew the landmarks recorded in that history, the muniments of freedom, set up along the line of that continuous struggle.

They knew the traditions that told the story of Magna Charta, how it was extorted from an unwilling and treacherous sovereign, confirmed, from time to time, by bills of rights, until the British Constitution as it stands today, was firmly established. They brought here a realizing sense of the value of individual liberty, with the steadfast purpose that in their new homes freedom should be maintained, and that this land should be a land of liberty forever. Individual liberty was respected, and throughout the colonial period the people's rights, as they had been learned in the mother country, were maintained. The government was democracy, all men standing upon equality. When at

length, Great Britain saw that the industry of our colonial fathers was developing means out of which taxes could be wrung, her greed prompted her to impose taxes upon them without their consent, and to assert the right through her Parliament, to control them in all cases whatsoever. Our fathers could not submit to such assumptions, made in violation of the sacred principles embodied in the Magna Charta, cherished in their daily thoughts and interwoven with the very threads of their lives.

They loved England as their old home. They loved peace and were unprepared for war. They sought not independence. They only sought to be left unmolested in the enjoyment of the rights of freeborn Englishmen. They humbly petitioned and firmly remonstrated, but the King and Parliament spurned with the same contempt, humble petitions and stern remonstrances. The inevitable took place. A new nation was born, and established as such, among the nations of the earth, by the swords of men whose watchwords were "liberty or death." When independence had been achieved, the victors were confronted by a most difficult problem, viz., how to secure the liberty which had been won, and perpetuate its enjoyment to their posterity.

They knew its value. It had cost them dear. In its behalf their lives, their fortunes, and their sacred honor had been pledged. Their blood and treasure had flowed like water, and now, when it was won, they felt that it must be preserved and made safe.

I come now to the consideration of the theoretical basis of our institutions. The fundamental theory, on which our institutions rest, is that the people are the sovereigns and the only source from which the powers of government can be legitimately derived. Upon this theory our written constitutions, both state and federal, in fact, were founded.

The people in their sovereign capacity, by these written instruments, created governments to which they delegated powers, limited, qualified, and to be exercised in manner set forth in those instruments.

The officials by whom those governments are administered, by frequent elections, are made directly subject to popular control, and thereby individual rights would be at the mercy of a popular

majority, but for the guarantees in those written constitutions for the protection of life, liberty and property. The people who framed and ratified those constitutions, having been trained in the school of freedom, knew from experience that the rule of the majority, unrestrained by limitations upon power, might be more tyrannical than the absolute rule of a single despot.

The men of the revolution dreaded a recurrence of the evils against which they had rebelled. They would trust no one, not even themselves, with unlimited power. They revolted because the safety of life, liberty, and property was arbitrarily and illegally threatened, and having carried their revolt to a successful result, and having all power in their own hands, they went to work deliberately, and limited themselves in its exercise. They carefully guarded by written constitutions, against even their own arbitrary assaults, the rights of the individual to the enjoyment of life, liberty, and property. These constitutions illustrate the magnanimity, the far-sighted wisdom, and the self-denial of the people who were their framers, and who thereby practically restrained themselves against themselves, in the interest of individual rights. The purposes sought to be accomplished are well set forth in the preamble to the Federal Constitution:

"We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

This Constitution created the federal government which was organized and put into operation in 1789, and ever since has continued in successful operation, and today, in the one hundred and fifth year of its age, stands firmer than ever, securing to us all the blessings it was ever expected to secure, and promising to endure as long as intelligence and virtue in even a moderate degree shall actuate the American people. The wise provisions of our state and national constitutions have borne good fruit, especially that provision by which the three great powers of government, viz., the executive, legislative, and judicial powers, are

made independent of and checks upon each other. Whenever any right guaranteed by the Constitution is alleged to be infringed by legislative encroachment, it becomes the duty of the judiciary to hear and to determine, and if they find that the questioned act is in conflict with the fundamental law, with the Constitution, then they have no alternative, they must adjudge that act void. In practice our courts are expected to consider, and they do consider, the constitutionality of any legislative enactment, whenever the question arises in a litigated case, and they are expected to hold, and they do hold, the questioned enactment unconstitutional, if in fact it is plainly so; but if, upon the other hand, they can see that the enactment can be brought fairly within the scope of the constitutional powers of the Legislature, then they hold it constitutional without any reference to its character in other respects. Of the expediency or justice of a law, the Legislature are the sole judges, and their determination of those questions is final. The generally intelligent, upright and impartial exposition and application of the laws by all the judicatories, both state and federal, has hitherto restrained the other departments of government within their proper limitations, and has given us a higher degree of security for personal rights than what any people elsewhere have ever enjoyed. The judiciary originally was designed to be, and in the past history of the country has been, the regulator of our complicated governmental machinery, and in the future, so long as the people place and sustain upon the bench, patriotic men of ability, integrity, and firmness, the Constitution will be maintained and individual rights be safe. Since the adoption of the Federal Constitution there has been more than one crisis when severe strain was brought upon it, but it has always outridden the storm. It was especially subjected to a terrible strain during the active period of the late Civil War. The suspension of the writ of *habeas corpus,* arbitrary arrests, and illegal imprisonments on more than one occasion, made us realize that *inter arma leges silent,*— that "amid the clash of arms the law was silent."

Yet even in the delirious excitement of those days, such parts of the country as were not either actually occupied or threatened with occupation by hostile armies, were for the most part sub-

stantially under the protection of the civil laws; and now when we look back upon those troubled times, the wonder is that greater outrages and trespasses on individual rights were not perpetrated than what actually occurred.

Upon the suppression of the rebellion and the restoration of peace, the Constitution and laws were found in full force. An amendment to the Constitution, adopted with formal regularity, abolishing slavery, and giving to the negro race the rights and privileges of citizenship, was the only substantial change of that instrument.

Having said this much in regard to the theory upon which our institutions are based, and having noted somewhat, the manner in which that theory has been carried out in practice, I come now to the consideration of my third subject, viz., the importance of a strict observance of the constitutional limitations upon power. In considering this subject, I will first call attention to the extraordinary work accomplished by maintaining in successful operation, for more than a hundred years, many governments under and by virtue of our Federal Constitution. These many governments, each operating with its prescribed sphere, and independently of one another, are, as it respects certain matters of general interest to the whole, one government—*e pluribus unum*. The powers appertaining to government have been so wisely distributed between the state and federal governments by constitutional limitations, that if we maintain each government in the full and effective exercise of its legitimate duties, we thereby secure to ourselves liberty, prosperity, and all the blessings which good government can bestow.

The Federal Constitution plainly points out the boundaries between state and federal power. Ordained and established by the people for the people, the Federal Constitution has hitherto been sustained by the people for themselves, and if it is to endure it must be sustained in the future in like manner as it has been in the past.

No truer maxim was ever uttered, than that, "eternal vigilance is the price of liberty." If we seek to preserve our free institutions, we must study them, and carefully ascertain their vital points, and then with "eternal vigilance" guard those points from all assaults.

Any disturbance of the distribution of political power, as made by the Constitution between the states and the federal government, would indeed be trouble in a dangerous quarter. A substantial breach of the Constitution in this particular, once made, would inevitably be widened with rapidity, and soon with a government subverted, liberty itself would be lost. The name might remain, but the government, ordained and established by the revolutionary fathers, would no longer exist. The glorious republic, of which Washington laid the foundation and dreamed that he saw in the far off future, towering in magnificence, would either be shrouded in the darkness of imperial despotism or be lying prostrate in anarchy, deplorably helpless, and the common plunder of all the robbers with which mankind is cursed.

Civil liberty, everywhere throughout our country, howsoever bounded, will be safe only so long as the federal government is secure in the exercise of its delegated powers, and the states are secure in the exercise of their reserved powers, and both restrain themselves within their constitutional limits. So well adapted is our system of government to the situation, circumstances, and character of our people, that the vast territorial extent of our country is not an element of weakness, but, on the contrary, it is an element of strength. Indeed I am of the opinion that we might safely go further and enlarge our confederacy, by adding to it more states, provided those added states shall have a people and institutions similar to our own or such as will readily assimilate with our people and our institutions. Under the representative system, the Federal Union is adapted to indefinite extension. Within it, there can be conveniently embraced many states and vast territory. The bond of union would not hereby be weakened, but strengthened, and dissolution made more difficult.

The few powers delegated to the federal government are of such a general character that they can be exercised just as efficiently over many states, and over territory extending to remote boundaries, as over a few states and a territory circumscribed within narrow limits. Of course, it will be understood when I speak of an extension of the Federal Union as adding to

its strength, I mean an extension over states and territories where republican institutions exist, and where the people are adapted to their maintenance.

The powers not delegated to the Federal Union nor prohibited to the states are reserved to the states. So that all the powers appertaining to government, not specially enumerated in the Federal Constitution, as delegated or prohibited, belong to the states.

The powers thus reserved to the states embrace within their scope an immense mass of legislation and governmental action too great for enumeration. The individual citizen must look to his state for the legislation and action that comes home to him and protects or restrains him in his daily concerns. He must look to the state for the legislation and judicial action that punishes crime and protects life, liberty, and property; that regulates domestic rights, the descent of property, education, the care of the poor, and all those matters and things innumerable, the proper regulation of which is indispensible to the well being of society. The powers delegated to the Federal Union, though few in number, are over matters of vast importance and general significance, in which all the states are concerned alike, such as the intercourse with foreign nations, the public defence, and the regulation of foreign and interstate commerce. The powers reserved to the states enable the people of each state through their home governments to govern themselves, as it respects all things of a local nature or in which the community is immediately interested. So that whatever may be the boundaries of the Federal Union, the people everywhere will have at their very doors a government amply competent to remedy all the wrongs and remove all the annoyances that ordinarily disturb the body politic. The people of the states can just as conveniently govern themselves in a union that is broad in its extent as in one of narrow limits.

The more extensive the Federal Union is made, the more formidable is the aspect of power which it presents to foreign nations and the less likely it will be to suffer from foreign encroachments; and at the same time the prosperity of the whole is promoted by the extension of untrammeled trade

and intercourse. The vast extent of the Union at the present time and the many states of which it is composed, is a great security against sudden and irrational action on the part of the federal government, by reason of prejudice or excited passions.

It is not to be expected, and in practice it has not been found, that the same delusions have prevailed at the same time throughout the whole country. Now that slavery has been abolished, the many different states and the many diverse interests that are embraced in the federal bond, make it difficult if not impossible, to form a combination of sufficient magnitude to threaten seriously the integrity of the Union.

The difficulty of forming such combinations would be increased by adding more states to the Union. Before mischief makers can create combinations dangerous to the country, there must be dissatisfaction broad and deep. Such dissatisfaction never can exist so long as the federal government is administered within its proper bounds and the states are left to the enjoyment of their reserved rights. It is certain that if we can secure and maintain our existing institutions in their legitimate operation, liberty will dwell, and prosperity increase throughout all our borders; the Union will be safe, the country secure from foreign aggression, and further additions to our territory of a suitable character will add to our blessings and make them more secure. The Federal Constitution is a work wonderful in its adaptation to the situation and circumstances of the people for whom it was established.

The more it is studied in connection with the objects it was designed to accomplish the more apparent becomes the profound wisdom and statesmanship of its authors. It has long since passed the experimental stage. It has been tested in sunshine and in storm, in foreign and domestic war, and still remains firm and unshaken, a glorious monument that commemorates the self-denial and patriotism of its founders. The past, present, and prospective prosperity of the country under the Federal Constitution, plainly points out to us our duty, and calls upon us to devote our best energies to its future maintenance.

The result of the late Civil War has demonstrated the fact that

the powers given the federal government are amply sufficient to preserve the integrity of the Union. The tremendous efforts necessarily put forth by the federal government in order to suppress the rebellion, to the popular eye made federal power very prominent and greatly overshadowed the prestige of the states.

There is no doubt that the war and its results, temporarily, at least, strengthened the political forces that tend towards centralization, and weakened the home governments. But discerning minds did not fail to see that strengthening the central power by aggressions upon the reserved powers of the states was taking direct strides toward despotism. The return of peace cooled the popular frenzy, and abated the fierce animosities engendered by the war. Reason resumed her sway and the people resolved that liberty and union under the Constitution, in defence of which their blood had flowed, and their treasure been spent without stint, should not, after the battle was won, through their own folly be lost.

A conservative feeling began to prevail, and the Supreme Court of the United States met the occasion with the dignity and firmness becoming the tribunal whose vast responsibilities outweigh those of any other similar tribunal that has ever existed. That court expounded the Constitution as its framers designed it, as Marshall and the other great luminaries of the law, who have adorned the bench, had expounded it. They declared that the Union was a union of states with powers reserved to the states, and that the preservation of the Union required that the states should be maintained in the full exercise of their reserved powers.

Adjudications have been rendered and enforced with the approbation of public opinion everywhere, by which all the rights guaranteed by the Constitution have been fully vindicated.

And thus the Federal Constitution having abided the shock of the greatest civil war in the world's history, and having survived and emerged from the storm with all its guarantees vindicated, I think we may very well consider that our home is in a land where the muniments of freedom are steadfast and impregnable.

I had intended to speak further and more specially note some of the constitutional guarantees of individual rights, such as the prohibition of *ex post facto* laws, retrospective laws, laws taking private property for public uses without compensation, and other similar guarantees, but this would open a wide field for discussion and the time that I can fairly assume to take is exhausted.

I had also intended to say something to the bar by the way of suggestion as to their obligations — that they as guardians of the law are in duty bound to know the fundamental laws, and to be able to expound them not only to their clients, but to the people generally.

This government being a government where the people rule, every citizen is called upon to exercise the right of suffrage, and is liable to be called upon to do duty as a legislator, or he may be called upon to fill any one of the public offices of the country, even the highest. Hence, every citizen has occasion to know what the Constitution is; and where shall he get that knowledge except it be from the lawyer who advises him as to his private rights, and tries his litigated cases? This is also an important and prolific subject, but its discussion consumes time and it must be dropped.

Since the last meeting of this association, several of its members have paid the great debt to nature. William Heywood, full of years and of honors, has passed away. His name will always awaken in our hearts emotions of love and respect. Jacob Benton, almost an octogenarian, in good health, full of vigor, by an untimely accident has been hurried into eternity. He was a strong man and has left his mark. We shall not soon forget him.

John Farr, full of years and deservedly honored, has crossed the dark valley. Though he came late into our profession, he has done honorable and efficient service therein, and leaves a good name behind him.

There are also three other members of the bar, born within the limits of this association, but whose professional practice for the most part has been elsewhere, and who have died since our last meeting, viz.:

Robert I. Burbank, a graduate of Dartmouth College of the class of 1843, a lawyer and municipal judge in Boston, of good standing, and whose age somewhat exceeded three score and ten years.

Charles R. Morrison. His early practice was in the County of Grafton. He was a lawyer of ability and of indefatigable industry. After a long life of hard work he rests at last.

William Little. His life falls short of seventy years, but it was long enough to do good work in literature as well as the law.

Appropriate memorial addresses for each of these deceased brothers will be delivered at this time, and will go upon our records—the last tribute of respect that we can pay to their memories.

PRESIDENT'S ADDRESS.

Delivered at the Annual Meeting of the Grafton and Coös Bar Association, in Littleton, N. H., February 14, 1895.

Gentlemen of the Association:

If you will now come to order, we will open the exercises. The first on the programme is an address from myself. I have been in bad health, in fact housed up with sickness for the last few days. I have been unable to formulate any landmarks to guide me in an extended discourse upon any of the numerous topics that might be suitable for consideration on the present occasion, and I do not dare, without chart or compass, to launch an extemporaneous craft on the wide, open sea of indefinite discussion, for fear that I might never see land again. I shall therefore content myself with a very few words beyond what may be necessary for the discharge of my formal duties. By so doing I doubt not I shall oblige you, as well as lighten my own burden.

Gentlemen, I welcome you to the twelfth anniversary of this association. I welcome you to all that the occasion affords of reminiscence for the past, of festivity and good fellowship for the present, and of bright hopes for the future. In so doing I

am conscious that I stir up memories which must awaken in your bosoms varying and conflicting emotions.

We may well indulge in feelings of proud satisfaction as we look back upon the history of this association, and contemplate the work it has done in connection with what it is doing and what it promises to do. Already it has done much towards rescuing from that oblivion, which fain would bury all alike in forgetfulness, the names and lives of many worthy men who aided in laying the foundations and rearing the superstructures of the glorious institutions that insure protection to life, liberty and property, and guarantee to us perfect freedom to seek our fortunes and pursue happiness along the ways of our choice. This association also records the names and doings of the men of our own day and generation, memorials to be transmitted to posterity for its reference and emulation. It has attained an age and acquired a stability which promises that it will endure, and continue to be an inspiration to wholesome ambition, and that those who shall come after us must apprecate its usefulness and permanently maintain it.

Looking upon this association as our own work, our bosoms swell with spontaneous emotions of pride as we contemplate what it has done, what it is doing, and what it promises to do. Like Nebuchadnezzer of old, who gazing on the mighty city of Babylon, its lofty walls, majestic palaces, and beautiful structures, said: "This is my Babylon. I built it." So we, looking at this association, may say, "This is our work. We built it." But alas! the images of those who were once with us and wrought with us, and are now gone out from us forever, rise up before the mind's eye of each one of us and rebuke us. This work is theirs as well as ours. In its institution and maintenance some of our brethren, who now sleep their last sleep, were among the foremost and the strongest. This association links us to the memories of our departed brothers, and we now hold it in trust for those who have gone before us, for ourselves, and for those who shall come after us. The pride which we have in this work is chastened by our sorrow for the lost ones whose memories are indissolubly connected with it. It is meet that at the anniversaries of our association we recognize the tie which links us to

our lost brothers — that we pause for a moment, and drop in silence a tear to their memories. Such a tribute is their due and instead of marring enjoyment, adds to it, by giving to us a keener relish for all that is good, wholesome, and elevating in our exercises and festivities.

This anniversary of our association is in the year of our Lord 1895, and soon the light of another century will dawn upon the world. Probably the most of us will see the light of the twentieth century, but some of us, particularly some of those the setting sun of whose lives has already almost reached the horizon, are not likely ever to behold it. Great and wonderful are the changes which have been wrought in the nineteenth century. Civilization has traveled apace, scattering enlightenment, comforts, and luxuries even, everywhere and to everybody. The common people of today fare more sumptuously than did the wealthy few of a hundred years ago. Missionaries have spread Christianity and knowledge into the remotest corners of the earth. The darkest recesses of darkest Africa have been penetrated, and the hidden sources of the Nile, always heretofore eluding the persistent search of the explorer, have been discovered. Vast territories of land, magnificent fresh water lakes, rivalling our own inland seas, have been found within the interior of the African continent and for the first time brought to the knowledge of civilized man.

The icy barriers that girdle the poles of the earth have been assailed again and again by hardy and daring adventures, but the mysterious secrets that lie beyond those barrriers are as yet undiscovered. The laws that govern some of the most powerful forces of nature have been studied and those forces have been untilized in the service of man. Time and space have not been annihilated, but they are very far from being the obstacles in the way of human progress that they once were. The immense power of steam has been subjugated, harnessed, and put under the yoke, and by it huge and ponderous freights and innumerable passengers are transported by sea and by land over and around the world. The subtle but terrible power of electricity is yet only imperfectly subdued. Enough, however, has been demonstrated to make it certain that the attainment on the part

of man of a deeper and more accurate knowledge of the occult laws that govern this extraordinary agent may enable him to utilize it as he has utilized steam. The inquiry as to the uses to which electricity may be put opens up a vast field for speculation; but it is idle to predict what may or may not be, when man bestrides the forked lightning and rides it as the obedient horse is ridden. The boldest dreamer would hardly trust his imagination to fashion what may be the result of such a conquest.

We know that knowledge is power. What may not a man do if he knows how? If men fully knew all the laws of nature and of the universe would they not be gods? But, alas! the greatest truth that the wisest of men have discovered after having spent their lives and exhausted their powers in search of knowledge, is, that it was but little they knew, while the great ocean of truth lay beyond their grasp unexplored. When humanity has reached the goal that marks its end, what will be that end? When the earth shall cease to be inhabited by man whither will he have gone? Will he have ascended to a higher sphere to dwell nearer the Deity, or will he have fallen back and have been lost in the original chaos out of which creation emerged? There are grounds for the hope that the ultimate destiny of man is a position higher and better than the one he now enjoys. It is certain that he is a progressive being. He learns. He is always learning. When he acquires knowledge it is wonderful what the fruits of that knowledge are. When he learns something that heretofore has been known to Omniscience alone, he makes progress corresponding to such learning towards the Godlike.

Man has learned a little from the great storehouse of nature's truths. He is still learning and we cannot discern the limit where he will cease to learn. Birds transport themselves through the air, and it follows that man might transport freight and passengers through the ethereal element around us, if he knew enough to construct machinery which would operate in accordance with the laws that enable the birds to fly. Let progress be made for the next century in the same ratio that it has been made for the last century, and could we now behold the everyday transactions of one hundred years hence, how inconceivably strange and wonderful to us they must appear. Perhaps the

traveler may then take the wings of the morning and fly to the uttermost parts of the earth, or he may take the modes of conveyance that shall then be in use on the land and the sea and be carried with the speed of lightning across oceans and continents.

The history of the world shows, however, that the march of human progress has not been always forward on a straight line. It has halted, been stationary, retrograded, and zigzagged before resuming a forward course.

If the present progressive movement of civilization should be arrested and it should come to a standstill in the next century, or should it zigzag or retrograde even before resuming an onward course, that would be in accordance with what has happened in the past. In our anticipations as to the future we have no guide except the past, and we cannot feel assured that the twentieth century will close upon a world more enlightened than is the world of today. Indeed when we contrast the darkness of the Middle Ages with the brilliant light of civilization that illuminated the world during the preceding period of Grecian and Roman supremacy, we must painfully realize that there may be a similar contrast between the next century and the present time, and that one hundred years hence barbarism may brood over lands, where now with earnest zeal the arts and sciences are generally and successfully cultivated. At this very time there are clouds just above the far-off eastern horizon, no bigger than a man's hand, that may be the beginning of what shall grow into a mighty cyclone, which shall sweep over the earth and arrest the world's progress in all that elevates and improves mankind. Japan, yesterday, was inhabited by barbarians only, who, secluded within their island home, were unknown to the outside world. All at once they have developed a wonderful ability and energy; insomuch that the people of all nations are gazing at them with astonishment. Very suddenly, and almost by intuition, they seem to have mastered not only the art of war but the industrial arts of peace, as practiced by those nations furthest advanced in modern warfare and industry. Japan with disciplined battalions is now waging successful war against its neighbor, China, the oldest and most populous of nations.

China has an authentic history of a national existence, dating back more than four thousand years. At an early period she attained a sort of semi-civilization, and has since stubbornly maintained it at that stage without any apparent falling back or further progress. Her people, until recently, have been shut off from all intercourse with the rest of mankind and as a consequence their habits and traits of character, unaffected by foreign influence, have been hardened and strengthened by transmission from generation to generation for thousands of years. They have carried the science of multiplying human beings and maintaining them in large numbers in vigorous health on limited space at small expense far in advance of any other people. A dozen Chinamen will breathe comfortably and supply themselves amply with food where one European would suffocate for want of wholesome air and starve from inability to supply himself with food. Chinese labor is far the cheapest labor in the world, and China can spare millions of her laborers every year and never make any perceptible diminution of her population. The wages on which a Chinese laborer will work and thrive will starve any other laborer. Our experience in the United States has taught us that if we allow fair competition here the Chinese laborer will compel all other laborers to leave the country or go into pauperism and starvation. Our government has recognized the fact and to protect its people has excluded, contrary to its hitherto settled policy in reference to foreign nations, the Chinese emigrant from our shores. The present war between China and Japan is likely to terminate either in conquest or a treaty that will unite the two countries in some permanent alliance under the leadership of Japan. The last vestiges of the wall that shut off the Celestial Empire from the outside world will then disappear and then a people that can march further in a given space of time and endure privation longer than any other people in the world will be trained in the art of war. Armies will be organized, equipped, and disciplined, navies will be built and material of war prepared in accordance with the latest improvements of modern invention. Cheap labor under skilful direction will flood the markets of the world from Chinese and Japanese factories with all known manufactured products.

The unoccupied places of the earth will be sought out and crowded with Japanese and Chinese colonists.

When diverse populations meet and crowd upon each other it is the fittest that will survive, and if there be equal courage and intelligence it is the most enduring that will survive. When opposing armies equally equipped and disciplined under competent leaders meet, the most numerous host is likely to prevail. When nations or individuals compete in manufacturing industries the one that manufactures a good article at the least cost will get, if the contest be fought out to the bitter end, a monopoly of the business.

It is immaterial so far as it may affect the civilization of the future, whether China and Japan shall be victorious over the outside world in the actual clash of armed forces, or in an industrial war. In either event, the light now shining and illuminating the world, if not extinguished, would be deeply shaded by the controlling influence of the semi-barbarism of China and Japan. It would be in accordance with the history of the past, if in the future armed and disciplined hordes in countless numbers should issue forth under the leadership of a second Genghis Khan, Timour or Nadir Shah from the swarming millions of eastern Asia, and, driving everything before them, overrun and desolate western Asia and Europe. It would be in accordance with our experience if the cheap labor of China directed by Japanese energy and brain power should prevail in an industrial war with the more costly labor of other countries.

The inferences to be drawn from the past and the prophetic shadows that existing phenomena cast on the future, when considered together, afford no satisfactory evidence as to the character of the events which the twentieth century will bring forth. Whether progress on the present lines is to be continued and the world one hundred years from now is to be illuminated with a light of civilization brilliant beyond our conception, or whether then the earth will be shaded by a semi-barbarism or still more deeply obscured by a renewal of the dark ages, is something that we of today wot not of.

THE RIGHTS AND RESPONSIBILITIES OF THE UNITED STATES IN RESPECT TO THE INTERNATIONAL RELATIONS OF THE LESSER REPUBLICS OF AMERICA AND THE GREAT POWERS OF EUROPE.

AN ADDRESS DELIVERED BEFORE MARSHAL SANDERS POST, No. 48, G. A. R., IN THE TOWN HALL, LITTLETON, N. H., DECEMBER 26, 1895, ON THE OCCASION OF THE PRESENTATION OF A MEMORIAL RECORD VOLUME TO THIS POST.

Gentlemen of Marshal Sanders Post, No. 48:

Your service at a critical period of American history is the occasion of this meeting. I am here to present to you a blank book, in which you may record your names and the names of your associates, now deceased, with appropriate remarks in each case. The connection between those services and the salvation of our great republic, at a time when its very existence was imperiled, furnishes me fit opportunity, not only for retrospection, but for speculation as to the future, and for consideration as to present duty. I will not stop to dwell upon the dire necessities of the country and the impending ruin that threatened it in the doubtful hour when you donned the soldier's garb and enlisted under its banner. A grateful people, whom your strong arms succored in the hour of need, have remembered you, and are remembering you now. Your work was well done. Peace came, and it came to stay. The warring states were reunited in a Union which has grown so strong that we might today safely defy all the world to break it. Out of feeble, disunited, and scattered colonies, the wisdom of our fathers laid the foundation of our republic, and in it made liberty secure by constitutional limitations upon power. This work of our fathers, the patriotism of our people has nurtured and sustained, and through the favor of Divine Providence we have grown into a great nation, wherein free institutions are firmly established. Upon us, the people of the United States, rests the responsibility of directing the ad-

ministration of the government. It is our duty to look after our rulers (who are our servants) and to see that they act honestly and wisely in respect to affairs at home and affairs abroad.

In view of the fact that our republic is the great republic of the world, and has a government and institutions that are free, and guarded by safe muniments, and is today, as I maintain, the strongest government on earth, I propose to consider especially the protection which we owe to the lesser republics of America, and the policy we ought to pursue in our dealings with the great powers of Europe.

My theme will be, "The Rights and Responsibilities of the United States in Respect to the International Relations of the Lesser Republics of America and the Great Powers of Europe."

All the world have been spectators of the origin and growth of our people, and during the entire period of the experimental stage of our national existence, our theories in regard to the equality of all men and the sovereignty of the people, were regarded by our foes with derision and contempt, and by our friends as too good to be ever practically realized. Our government and institutions, based on these theories, were considered by the philosophers and statesmen of the old world, as resting on the impracticable ideas of dreamy enthusiasts, as of little importance, and as sure, on the occurrence of the first popular commotion, to be utterly demolished. Time passed on, and the republic of small beginnings, tested by many trying ordeals, grew stronger, and the prophets of evil spoke less frequently and with greater caution. At length the final ordeal came, and the strength of our government and institutions was tested by the throes and convulsions of a civil war, in magnitude without precedent in ancient or modern history. That ordeal was passed triumphantly and the strength of our government fully established. The spectacle afforded by our tremendous Civil War, together with its result, was an object lesson for all the nations of the earth. They saw the immense armies we marshalled, the great battles we fought, rivalling the armies and battles of Napoleon's wars. They beheld the maintenance of successive campaigns on this vast scale, while the men, supplies, money, munitions of war necessary for the support of all the armies on both sides, were

drawn from the resources of the United States alone. They beheld American invention revolutionizing naval construction the world over, causing the then existing navies to become useless, and limiting naval warfare to iron-clad vessels. They beheld such improvements in artillery and in death-dealing machinery of every description, either made or suggested, as to awaken competition among nations in the art of destruction, and to cause progress to be made therein so far that now war threatens absolute annihilation to all combatants.

The termination of this extraordinary exhibition of warlike strength, skill and invention, was the settlement of the controversy, the removal or adjustment of all matters of difference, and the union of the contending forces under one flag. A Union that will endure, a flag that is beloved at home and must be respected abroad. Devotion to the Union and to the flag is the common sentiment of our people everywhere. Our fellow citizens, whether dwelling on the Pacific or Atlantic coast, on the shores of the Gulf of Mexico, or in the forests of Maine, all alike feel their bosoms thrill with patriotic devotion to the great republic. War is always to be avoided, if it can be with honor, but if, in the providence of God, war should come, there can be no doubt that the united forces of our whole country would promptly rally in its defense, and with unyielding fortitude and valor maintain its cause. Our late Civil War, ending as it did, demonstrated to ourselves and to all the world, that we are a nation which must be reckoned among the great powers of the earth. This position puts a responsibility upon us which we cannot avoid. Momentous consequences, fraught with either weal or woe, must result from what we do or refrain to do. It is incumbent upon us to act in a broad and liberal spirit, and with such consideration and wisdom as will best promote the welfare, not only of ourselves, but of all mankind. We should have a foreign policy, with definite ends in view, and we should steadily labor in all legitimate ways to secure those ends. If we speak in one voice today and in another voice tomorrow, the influence we ought to exert is not felt. Our own interests, and the interests of those who seek and are entitled to our protection, are sure to suffer. If we would be respected abroad we

must act wisely and carry a steady hand. We must speak language comporting with our standing as a nation among nations. Our government must always be ready to vindicate the rights of American citizens, and to cause them to be everywhere respected. The maintenance of our own peculiar institutions, as against antagonistic institutions, is subserved by upholding in neighboring countries, institutions kindred with our own. Our government was the first independent government established by civilized man in the western hemisphere, and is republican. Its form has been the model that has guided the formation of all the other governments on this half of the globe. Monarchies and despotisms varying in form are the governments that control, with a few exceptions, the eastern hemisphere. Our position as a first class power, demonstrated and acknowledged, entitles us to take part and be heard in making those general arrangements which the welfare of the world requires, and which to be effectual must be approved and upheld by the controlling powers of the earth. Our neighbors are sister republics. Their maintenance and well being as such will make our own free institutions more secure. Having chosen our form of government as the model of their governments, as against outside interference seeking to force upon them monarchies or despotisms, they are entitled to our countenance and support. The fact that our republic is the great republic of the world, and that its arm is strong, imposes upon us the moral obligation to shield and protect all lesser republics so far as it is necessary in order to secure for them the enjoyment of the institutions and government of their choice. The additional fact that all the governments on the western continent are republican, imposes the further duty upon us to inquire what arrangements in reference to the western continent, as it respects the other parts of the world, does its welfare demand, and to use all legitimate measures to have such arrangements made and carried out. The dominion of European powers over any portion of the western hemisphere causes entanglements, is a constant source of annoyance, and a clog to progress therein. Controversies are constantly being raised by one or the other of the European powers either against ourselves or some of the other American

republics. It is about boundaries, fishing rights, sealing rights, shore rights, and it would be hard to name anything about which such a controversy might not arise.

A gold bearing region has been discovered in Venezuela, and Great Britain claims it is within the boundaries of her dominion. This contention has raised a first class controversy. Our government is properly taking the ground that, according to its established policy, the gold bearing region, if within the proper boundaries of Venezuela, cannot be taken from Venezuela, and that Great Britain, under a pretense of fixing a boundary, must not encroach upon the territory of any of the countries upon this continent, or plant new colonies upon it.

Gold having been found in Alaska, it is said that Great Britain is about to start a controversy in which she will claim that the newly discovered gold there has been found within the limits of her dominion.

England maintains impregnable fortifications at Halifax, Bermuda, Esquimault, and various other places on the Atlantic and Pacific coasts of America as naval stations, from whence she can send, on a moment's notice, sufficient force to bombard and burn our seaport cities or like cities of any of our sister republics. It is certainly not pleasant for us or for any other America republic to realize that these fortifications that darken all the coasts of America are stations for the colossal navies of Great Britain, and that iron-clad ships, armed with all the modern implements of swift destruction, may issue from those stations and, within twenty-four hours after orders received, assail and destroy the seaports of America. And it is especially unpleasant and embarrassing for us and our sister republics to be compelled to hold debates with Great Britain for the settlement of these constantly recurring controversies while she stands with her arm of power uplifted ready to strike us or them on the instant at a vital point.

Spain, having given up her once extended possessions on the American continent, now claims dominion in the western hemisphere only over the islands of Cuba and Porto Rico. The past history of Cuba, and the desperate revolutionary struggle now going on there, sufficiently demonstrate that the

sooner Cuba is relieved from Spanish domination, the better it will be for her, and that it would have been better still for her if she had been thus relieved long ago. Cuba, the largest and most beautiful of all the West Indian Islands, capable of immense development and of almost unlimited production, has been ground down for years and years by a tyrannous oppression and extortion of the most diabolical character. Her suffering people, deluded by false promises, have lived on from one wrong to another, feeling all the while the tyrant's grip clinching tighter and tighter until at length they have arisen in sheer despair with the determination that they will perish or be free.

We cannot deny the people of this magnificent isle that lies at our very door our most profound sympathy in their present great struggle for liberty. Nor can we justify ourselves in withholding from them our countenance and support so far as we can render the same without violating international law or treaty obligations. There can be no doubt that if Spain would allow Cuba and Porto Rico to be free and release forever all claim to dominion over any portion of the western hemisphere, she would thereby greatly promote the welfare of that hemisphere, and do an act which all the world would approve. Spain has been compelled by the force of arms to acknowledge the independence of all the splendid possessions she once held upon continental America. She has not voluntarily given freedom to any of her American colonies. She has done so only upon compulsion and after long, bloody, and desolating wars.

Russia has furnished us and the world a different example. Her extensive American territory of Alaska and numerous neighboring islands from which she was deriving a rich revenue in furs and by sealing and fishing, were voluntarily relinquished to the United States upon very reasonable terms. We bought of Russia upwards of half a million square miles of territory for the sum of $7,200,000, a territory as large or larger than Germany, as she is now bounded, added to France, Great Britain and Ireland.

Through it flows the great river Yukon, rivaling the Mississippi in the magnitude of its waters. Other rivers of less size but of importance flow within the bounds of this territory.

Alaska, though situated in a high northern latitude, has a much warmer climate than the climate of the territory in the same latitude on the Atlantic coast; and its extensive, prolific whaling and fishing grounds, its rivers abounding in salmon, its seals, its fur bearing animals, its immense forests, capable of furnishing an inexhaustible lumber supply, and its mineral deposits promising to be of value though undeveloped, demonstrate that the purchase from Russia of Alaska, whatever be its character for agricultural purposes, is in fact an important and valuable acquisition. We are undoubtedly indebted for the cession of Alaska to the friendship which Russia from an early day has entertained for the United States, to her recognition of the United States as the leading American power, and to her conviction that European domination on the American continent ought to cease. No European power could have obtained Alaska from Russia on any terms. The sale of Alaska was a concession to us and the other American republics by Russia that in her opinion we and they ought to control the destinies of the American continent. At critical periods in our history Russia has given unmistakable evidence that she was really our friend. During the doubtful period of our great Civil War, while the issue was hidden in the mists of the future, the governments of both France and England openly manifested their desire that the great American republic should be broken up and that discordant and belligerent states might take its place. Not so with Russia; she openly demonstrated by word and deed her desire that the American Union should remain intact and that the hopes of those who laid its foundations might be fulfilled.

We hear much, generally from sources not friendly to Russia, about the knout, banishment to Siberia, the despotic rule of the czar, and the cruel severities practised on offenders. To this it may be replied, truthfully, that the vast empire of Russia, embracing within its limits people of diverse races, of many nationalities in all stages of civilization between barbarism and a high degree of social advancement, can be governed effectually only by a steady, strong hand that corrects the wicked and the stubborn and overawes the wild, unruly savage by punishments which are certain and severe.

The reign of Peter the Great, which terminated in the year 1725, marks the period when the foundations of Russian power were laid. Since that time Russia has made rapid strides towards national greatness and must now be reckoned as a first class power, notwithstanding that her people have been shut out from the Mediterranean Sea, and consequently, by reason of imperfect communication with the rest of the world, been deprived of the opportunity to acquire the wealth, civilization, and refinement which a broad, open highway for commerce and intercourse with other nations would have given. It is not the fault of Russia that she has not today a foothold on the Mediterranean Sea. It is not the fault of Russia that the Turk rules at Constantinople and tyrannizes over the land where Christianity had its origin, and where Christ and his apostles were born, lived and performed their sacred missions. Nor is it her fault that today ignorant, bigoted, Moslem fanatics are plundering and burning the houses, villages and cities of the Armenian Christians and murdering without discrimination helpless men, women and children. Almost two centuries ago Peter the Great, whose memory is as dear to Russia as the memory of Washington is to us, left his example, his teachings, and his maxims of government to his countrymen, a legacy which they have treasured up in their hearts and by which they have been guided in counsel and action. Ever since the reign of Peter the Great, every Russian, on whose heart the traditions and patriotic impulses of his people had a hold, has dreamed of taking Constantinople and permanently planting the standard of his country on the shores of the Bosphorus, of driving the infidel Turk out of Europe, out of the Holy Land, and away from the primitive seats of Christianity, back whence he came, into the recesses of remote Asia; of liberating the oppressed and persecuted Christians of the land that was once the seat of the Roman Empire of the East; of restoring to their rightful worshippers those splendid Christian churches that the Turkish invader has converted into Mohammedan mosques, and of opening up a way for the Christian pilgrims to visit without molestation the places that were made sacred by having been the theatre where Christ performed his labors and his miracles and had his trial, condemnation, crucifixion, burial, resurrection and ascension.

The fact that the places, sanctified and holy in Christian eyes, were profaned and sacriligiously trampled under foot by impious intruders, no doubt fired the heart and nerved the arm of the Russian in his battles with the Turk. There is no doubt that long ago the Turk would have been repressed and that the millions of Christians, whom for the last century he has subjected to continuous persecutions, slaughter, and starvation, would have been restored to religious freedom by Russia if the great power which boasts of its philanthropy, rules the seas, has control on the four quarters of the globe and on the isles of the ocean, and brags that the sun never sets on its dominion, had not interfered. In 1858 the czar, as the protector of the Greek Church, and by treaty obligated to secure to the Christians within the Turkish dominions the enjoyment of their religion, having exhausted remonstrance with the sultan, and receiving from him a definite refusal to cease persecuting and slaughtering Christians, and to observe treaty stipulations, for these reasons, moved the Russian armies down upon the Turkish frontiers, and at the same time announced to the world the objects of the movement. England thought she could see that this movement threatened the loss of her immense trade in the Mediterranean and her great influence in the east; that the overthrow of Turkish power or its subordination to Russian control, would fully open up both the Black and Mediterranean seas to the use of Russian navies and Russian commerce, and perhaps ultimately make Russia a controlling power on both those seas.

England cannot now, and never could, tolerate the idea of losing anywhere her monopoly of trade, or of relinquishing her naval control over the waters of any sea. She has accumulated vast wealth and is today rapidly accumulating more by her monopoly of the commerce of the world. She has money enough, it is said, to buy every foot of land on the globe and pay for it at the valuation now given it by the various countries of the world respectively.

Some of the greatest statesmen of the world have said that the United States is the only country that could seriously compete with Great Britain for the commerce of the world, and that she might do it by abolishing her prohibitory tariff and

"her absurd navigation laws." When, in 1853, the armies of Russia occupied the principalities and were moving towards Turkey proper with the avowed object of protecting the Christians therein, England became so much alarmed in regard to her control over the Mediterranean that she proclaimed throughout all Europe, not the fact which was really troubling her, but she asserted that the balance of power between the several European countries was about to be destroyed; that unless a general rally was made in behalf of the Turk all Europe would fall under Muscovite control. The appeal was effectual. France, Austria, Prussia, and Sardinia joined with England in a combined effort to maintain the Moslem Turk in control of the Christian lands that he had subjugated, with unrestricted power to persecute and butcher therein at his pleasure the followers of the cross. A strange spectacle was presented—the Christendom of the nineteenth century inaugurating a crusade of a character the exact reverse of the crusades inaugurated by the Christendom of the eleventh, twelfth and thirteenth centuries. In one case vast armies were precipitated by the Christians nations of western Europe upon the east to maintain Moslem power over the sacred places and over the lives and liberties of Christians; in the other case warriors from those same western nations, devoted to the maintenance of the cross, continued for three centuries in great masses, host succeeding host, like successive waves on the ocean, to be hurled on the east and on the Moslem intruder who had thrust himself into Christian lands, profaned the sacred places, and denied to the inhabitants thereof the right to worship God according to the tenets of their holy religion.

England, having determined in 1853 to maintain the Turkish empire in the full exercise of all its powers, undertook to accomplish that object by assailing and crippling Russia. Accordingly England with her allies assailed the Crimea as the most vital spot of Russian power and after a long and bloody war overcame the Russian armies, captured Sebastopol and the other fortified places on the Black Sea and vicinity, and finally compelled the czar to make peace upon such terms as she pleased to dictate.

The terms of peace imposed by England were severe. All

the Russian fortifications and arsenals on the Black Sea were dismantled, and the erection of new ones forbidden. Russia was never to have any warships on the Black Sea beyond a small number of steamers of limited size for mere police duty. Russia was shorn of her territory, and especially was she required to give up the right which she had heretofore possessed of interfering with the sultan in behalf of the rights of the millions of Christian inhabitants that dwelt within the Turkish dominions. The sultan issued a firman announcing that in his own good pleasure he proposed to make certain reforms in behalf of his Christian subjects. With this England was satisfied and left the Christians entirely at the mercy of the Turk. After this treaty, denominated the Treaty of Paris, and made March 30, 1856, Turkey utterly neglected her promised reforms, and in 1876 the sultan entirely abandoned his Christian subjects in Bulgaria and consigned them to the merciless fury of fanatical Mussulmans. He let loose upon them irregular hordes of Bashi Bazouks to murder without restraint and to plunder and destroy houses, villages, churches and schools.

It was estimated that 40,000 Bulgarian Christian men, women and children, unarmed and defenseless, were then indiscriminately massacred. The inhuman monsters who perpetrated these murders and outrages were rewarded by the sultan, and the leaders in the horrible work were given high positions under his government, and decorated with honorary badges. When the news of the Bulgarian atrocities reached the nations of western Europe public opinion was greatly excited. Even in England her citizens held over four hundred public meetings, at which both the barbarism of the Turks and the inhuman greed of their own government were freely denounced. Gladstone, Bright, Carlyle, and many others of England's best and most distinguished men, published pamphlets and wrote newspaper articles, severely denouncing their own government, "and showing that England, which had been Turkey's chief supporter, was Turkey's accomplice in the crime." In the meantime, Russia and the western powers, with only the half way concurrence of the English government, were endeavoring to induce the sultan to inaugurate the reforms he had promised, but their

efforts were in vain, and the sultan, after considerable delay, on the 10th of April, 1877, issued a circular in reply to the protocol of Russia and the western powers, positively refusing to comply with its suggestions. Thereupon, the western powers not concurring in any measures to compel the sultan to make the promised reforms, Russia undertook the task alone and concentrated her armies on the Turkish frontier.

This movement was met on the part of the Porte by the declaration of war, and in June, 1877, the Russian armies crossed the Danube and in their battles with the Turkish forces, with the exception of the repulse at Plevna and the delay in its siege, made uniform progress, and having crossed the Balkans and beaten or captured all opposing armies, they arrived in sight of Constantinople in the month of January, 1878. On the 31st of January an armistice was signed as the basis of peace and on the 3d of March the definitive Treaty of San Stefano was signed, by which the promised reforms were secured and the status of the Christian population of the principalities and of all Turkish territory was made safe and secure. In the meantime the English government, overawed by the indignation of the English people over Bulgarian atrocities, had not dared directly to interfere while the warfare that Russia was waging in behalf of the Christians was going on, and had contented itself with mere growls until the work was accomplished, and a basis fixed for a treaty of peace.

As soon as that basis was agreed upon, England moved, sent her fleets into the Black Sea, marshaled her sepoys in India, and announced that there must not be a treaty concluded between Turkey and Russia until its terms were concurred in and approved by the powers constituting the European concert. England succeeded in again alarming and combining the western powers, by assurances that the balance of power would be destroyed unless the Treaty of San Stefano was modified. It was announced that a congress, representing the great European powers, would be held at Berlin for the discussion and modification of the Treaty of San Stefano. The czar at first declined to submit to this project, but in view of the warlike preparations of England and her threats of immediate hostilities, remembering

the Crimean War, he yielded. England assembled her European congress at Berlin in June, 1878, and the Treaty of San Stefano was amended by additions and substractions, until nothing remained to secure the objects for which the war had been fought, except that a portion of the principalities were provided for, some by independence and some by being made an Austrian protectorate. All the Christian population of the territory, except a part of the principalities, were left to Moslem mercy, and not only was no power authorized to interfere between the Christian and the Turk, but all the powers were enjoined by the terms of the treaty from such interference.

England was satisfied with the repetition of the promises by the sultan, which he had in the past neglected to perform, and the performance of which in the future he no doubt intended again to neglect, and the performance of which everybody expected he would again neglect. This setting aside of the Treaty of San Stefano and substituting in its place the Treaty of Berlin was a sore and solemn thing for Russia and for the Christian subjects of the sultan. Russia, the head of the Greek Church to which the Christians of the Turkish dominions belong, had spent her blood and treasure without stint in behalf of those Christians and had placed them in safety. The Christians of Turkey, having suffered everything from Moslem barbarity, hailed the advent of the victorious Russian armies with infinite joy. They expected and had a right to expect that what Russia had done for them would not be taken from them by the Christian nations of western Europe. The farce played between England and Turkey, the taking of the sultan's naked word for reform under circumstances which showed that there was not on either side any expectation of performance, may have been fun for England and the Turks, but to Russia and the Christians of Turkey it must have been a sore thing, especially to the Christians. England, as compensation for the part performed by her for the Turks in making this Treaty of Berlin, demanded and received from Turkey the island of Cyprus, the third in size of the islands of the Mediterranean, which she now holds for the same purpose that she holds Malta and Gibraltar, and for the same purpose that she maintains and has maintained the integrity of the Ottoman empire.

Since the Treaty of Berlin, down to the present time, the Christians have been subjected to all manner of persecution, oppression and extortion. During the year last past and at this very time, the Christian inhabitants of the Turkish province of Armenia have been and are subjected to continuous massacre, plunder, exile and starvation by Moslem fanatics to an extent far outrivaling the horrible atrocities of 1876 in Bulgaria. England, who made this infernal work possible, must be held responsible for it. All the world stands aghast, shocked, and outraged by the hideous spectacle. England certainly occupies no enviable position in this matter. She does nothing and probably will continue to do nothing towards putting an end to these barbarities. She clings to her trade in the Mediterranean and her control over its waters as the dying miser clings to his gold coin. She dare not interfere in behalf of the Christians with force, because she knows that the political machinery of the Ottoman empire is thoroughly rotten and has been for years, that long ago it would have tumbled to pieces but for her supporting hand, and that the first *bona fide* attempt on her part to restrain by force the fiery fanaticism of the bigoted Moslem in his habitual persecution of Christians, will break the Turkish empire into fragments and leave for Russia, Constantinople and a foothold on the Mediterranean. The western powers of Europe other than England, will do nothing unless England will lead them off, because they regard England as responsible for the present situation, and they propose to leave the responsibility where it is. Russia, as the head of the Greek Church, obtained authority by the treaties made in the reign of Catherine II., to interfere between the sultan and his Christian subjects for their protection.

When, however, in 1853, she undertook that duty, the united powers of western Europe, at the instigation and under the leadership of England, assailed her in her most vital point, deprived her of valuable territory and important rights, especially of her right to protect the Christians of Turkey, and for the time being reduced her to the status of a third rate power. Again, in 1877, when no other power would move, Russia undertook to restrain the Bulgarian atrocities, but no sooner was the

Turk brought to terms than England hastened to deny to Russia all adequate compensation for the work she had done, and to restore independence to the Turk with full power to plunder and massacre his Christian subjects at his own sweet will. This experience has no doubt taught Russia wisdom and caution. It is not likely that at this time she will pull the chestnuts out of the fire to accommodate England. It is not likely that Russia will spend her blood and treasure to relieve the Armenian Christians, with the certainty before her eyes that her work, when performed, will be set at naught by English interference, or that she will knowingly furnish a pretext which will enable England to combine the world against her by a hue and cry about the balance of power. She knows that she cannot be blamed on account of the present situation in Armenia and that the world must hold Great Britain responsible for it, and that all Christendom will condemn England for the avarice, the love of dominion, the inhumanity of its people, and their wanton disregard of the wrongs and sufferings of their Christian brethren. Russia will not do anything at the present time but await the impending downfall of the Turkish empire and then she will probably try to get her share of the fragments.

Ever since Russia, under Peter the Great, first emerged from barbarism and became ambitious of civilization and progress in the arts and in the accumulation of wealth, she has earnestly desired and greatly needed the possesson of Constantinople. The possession of that important place would have opened up her vast empire to communication with the rest of the world, to the civilizing influence of commerce, and would have contributed towards fitting her people for a government with constitutional limitations. Constantinople itself, freed from the dominion of the indolent, fanatical, and non-progressive Turk, and made the great mart of business and of trade between the immense empire of Russia and the rest of the world, would make rapid strides towards restoration to its ancient importance and magnificence. The student who studies the causes which accelerate or retard the world's progress, and who is anxious to see its forward march in everything that ennobles and enlightens, must welcome the advent of the Russian to Constantinople, bringing

overthrow to the dominion of the Turk and toleration to the Christian believer. What matter if some of the profit of the trade of the Mediterranean should fail to reach the bursting coffers of England, and Russia should get a little of it with which to relieve the poverty of her people? What matter would it be if the absolute power of England over all the waters of the Mediterranean should be modified by giving Russia a small voice as to matters there? Every impartial eye can see that Constantinople in the possession of Russia would add much more to the sum total of the world's improvement than its possession by any other power could add thereto. Constantinople needs Russia that its Christians may be protected and its ancient importance and glory restored. Russia needs Constantinople that her immense dormant resources may be developed and that her people may become enlightened, wealthy and refined. Russian rulers and people know the importance of Constantinople to them and they will never rest until it is won. It is in the thoughts of every patriotic Russian by day and by night that his country must and will have Constantinople. Sooner or later Russia, on some route, will find the road to Constantinople, and if England does not yield voluntarily she will be compelled to yield. A thing right in itself and so strongly demanded must ultimately be granted.

We have made this extended review of the conduct of England in dealing with the eastern question, in order to show the animus that controls her policy at all times and everywhere. It is an inordinate greed for money and power. After having done more than any other nation in carrying on the African slave trade and establishing negro slavery, she suddenly assumed the rôle of the philanthropist, and in that character made a great show of abolishing slavery in her own colonies and of suppressing the African slave trade, while the tendency of those measures was to cripple the powers which she wanted to see crippled. We have seen that England, to protect her trade and power in the Mediterranean, maintained the Turk in an independent position so that he could practice at his pleasure his cruel barbarities upon unoffending Christians. In our Revolutinary War, England instigated the savages on our frontiers to plunder and burn

our towns and indiscriminately murder our defenceless men, women and children, and justified herself in so doing by saying that she should use all the means that God and nature had placed in her hands to subjugate rebels. Since our beginning as a nation, England has never been our friend. She is always encroaching upon us or disputing with us about a boundary, seals, fishing rights, or something else. We are obliged to settle these controversies while her warships are thronging her fortified naval stations on our coast ready to strike. And whenever we settle any question with England we are obliged to negotiate and debate in regard to it under the disadvantage that she is prepared for immediate war and we are not. It will always be so as long as Great Britain holds dominions on this continent. She is philanthropic or misanthropic, humane or cruel, Christian, Moslem, infidel, or pagan, liberal or illiberal, according as her ends, which are always selfish, are best subserved.

Our country, in our dealings with foreign nations, has had a wise policy that has gradually developed. The present situation calls for a further development of that policy. The great nations of Europe are now maintaining immense standing armies and powerful navies with all the materials necessary for immediate war on hand. It is contrary to the spirit of our institutions and we do not desire to maintain corresponding armaments and corresponding readiness for immediate war; but we must do so or stand at great disadvantage in settling the territorial questions that are constantly arising with European powers, especially with England. Hence it has become an object of great importance to us that the great powers of Europe, particularly England, should not possess dominions on any part of this continent. The growth which our foreign policy has had in the past should continue. Washington, that far seeing man, initiated this policy by announcing that the United States would not interfere with the affairs of the Eastern world; that it would not make any offensive and defensive alliances there; that it offered to all nations, alike, friendly relations, conceding nothing to one which it did not concede to the other. These ideas were embodied tersely into the mottoes of the succeeding administrations in these words: "Good will and friendship to all

nations, entangling alliances with none." This policy was enlarged in 1823, and President Monroe then announced that European governments must not plant new colonies, nor extend their existing possessions nor interfere with existing governments within the limits of the western hemisphere. This doctrine, called the "Monroe Doctrine," has been indorsed and approved by our people without distinction of party. The time has now arrived when circumstances demand that in order that justice may be done, and the peace of nations preserved, there should be a further development of our foreign policy. We ought to demand of the great powers of Europe relinquishment of domination over any part of the western hemisphere upon such terms as in view of the present situation, are just and equitable, to be determined by arbitration or otherwise. In making this demand we should not threaten war, but we should base our claim upon those broad and equitable principles that have been recognized already by the controlling nations of the earth, and are getting better and better recognized as time goes on. The principle has been recognized that territory may be taken from a nation, and parceled out among other nations, or erected into a new and independent nation; that the sovereignty of a nation may be denied and a protectorate established, accordingly as by so doing, wars may be done away with, the permanent peace of nations made secure, and the welfare of the whole world promoted. England with the consent of the other great powers, occupies and controls Egypt for its good, for the preservation of peace, and for the purpose of maintaining the Suez Canal open to the commerce of the world. England compelled China to open her ports to the commerce of the world, on the ground that nations owed to each other reciprocal obligations in respect to trade and intercourse, and that if any nation shut itself up, and refused to trade and have intercourse with the rest of mankind, it was the right of any nation or nations thereby debarred, to compel by force such delinquent nation to perform its obligations to the outside world. England conquered India, and now rules over the countless millions of people which inhabit that country. This act of invasion and conquest of ancient sovereignties the world ap-

proves because India itself is benefited thereby, and the welfare of the world promoted. England, France, Germany, and other European nations are today engaged in subduing the wild tribes of Africa, Madagascar, Australia, and the numerous islands of Polynesia, and in planting colonies everywhere. Nobody objects. Everybody approves, and the welfare of the world is promoted by having the waste places of the earth now haunted by savages alone peopled by civilized men. America has always refrained and always will refrain from intermeddling with the affairs of the eastern hemisphere. We only demand that the rights of our citizens lawfully sojourning there be respected. England and her concert of European powers may settle the eastern question to suit themselves. They may maintain the integrity of the Ottoman empire or dissolve it, and parcel out its territory as they please. Upon them must rest the responsibility for the wrongs now or hereafter done to the Christian inhabitants of the Turkish territory. They may regulate jointly or severally the affairs of Europe, Asia, and Africa, or Australia, and the many isles in the waters of the eastern hemisphere, as unto them seemeth good. The United States will not interfere, but she claims, as one of the great powers of the earth, that her voice should be a potential one in regulating the affairs of the western hemisphere, and that she, with the other nations of America, should determine the question as to the distribution of territory in that hemisphere. The well being of America and the welfare of the world demand that it should be so. It would be a great relief to America if the great powers of Europe exercising dominion over American territory would abandon such dominion, and permit the people of such territory to govern themselves. We have already discussed Spain, and the character of the rule which she exercises in America. The other powers of Europe, with the exception of England, hold dominion over territory in America of limited extent, and of small importance. Whether or not such dominion shall be surrendered, is a question of little account except in one case it would be obeying, and in the other disobeying a general rule. England claims to have great dominions in America as she does everywhere else. The substantial part of

what she claims in America, is Canada, and the territory connected therewith in North America, lying north of us and not including Alaska. This claim embraces a very considerable part of the earth, covering an area of at least three and a half millions of square miles; a little of it inhabited, and some of it uninhabitable. This vast Canadian territory is susceptible of indefinite development; but it is not now making progress. It is substantially at a standstill. There is more emigration going out of it than immigration into it. It would be so no longer if British domination was removed. English dominion is an incubus upon the territory north of us. While it continues there will be no prosperity, no go-a-head. Enterprise will languish, business will stagnate, and there will be no growth, but let the Canadian territories be free and independent, allow the people there to strike out for themselves, and the march of progress will begin at once. The woodchopper's axe will make the forests ring. Its mineral deposits will be discovered, and made available. The hum of busy industries will be heard where now the noise of falling waters is the only sound that breaks the solemn stillness of nature. Population will increase at a rapid rate, and land values will be quadrupled many times. Everything will be booming.

While, as we have seen, the removal of British domination would be a great boon to the nations now organized in the western hemisphere, it would be an infinitely greater boon to the people of those American territories now under British dominion. The domination of England over any part of America is not beneficial to anybody there. It is offensive and annoying to everybody there. It is especially paralyzing to the territories over which it exists. It is an unqualified nuisance in every particular so far as America is concerned. So far as England herself is concerned it would be better for her to give up her dominions in America. She gets no revenue from her Canadian territories. It must cost her heavily to maintain her fortified naval stations at Halifax, Bermuda and Esquimault. The prosperity that independence will give to the people of the Canadian territories will enable them greatly to augment their trade with England, and thus they will richly compensate her

for any loss she may think she has suffered by granting them independence. England has dominions from which she is deriving a profit where she is needed and desired, sufficient in magnitude to keep all her governing capacity busily employed. Certainly it cannot be expected that she will desire to hold on to dominion which affords her no profit, where she is neither needed nor wanted, and where she is nothing but a nuisance to the people of that dominion, and the people of all its neighboring countries.

In regard to the foregoing suggestions inquiry perhaps may be made somewhat in this way: "Suppose all that has been stated to be true, and that the dominion of England over any part of America is an unmitigated nuisance to the people of that dominion, and to the people of every part of America. Suppose further that England refuses to treat in regard to surrendering her American dominions, and refuses to submit the question to arbitration, what can be done about it?" The answer to this inquiry on the case supposed is plain. The people of America would be fully justified in taking up arms and compelling England to relinquish her dominion over every part of America. Such an undertaking, however, ought not to be entered upon by the American people unless after careful consideration they think they could accomplish it, because such attempts when they fail are not productive of good, they only make matters worse. The circumstances of modern times have been, and are, such that strong nations even when they had good cause have hesitated about going to war. They have delayed and debated long before resorting to that final arbiter. The course, however, which we ought to take in the case supposed is not doubtful. Let us adhere to our established foreign policy, and the principles that underlie it at all times on all occasions, whatever political party may be in power. Let England understand that we consider her existing dominion in America to be an unmitigated nuisance, and that our people are unitedly determined that she must abandon it. Let us give our reasons fully, and continue our importunities without ceasing, and it is believed that she will yield. But if not and war must come then let us do as we have done before in similar circumstances when we were much weaker than we are now. Let us trust in the God of battles.

THE SAFETY OF THE REPUBLIC, THE SUPREME LAW.

PRESIDENT'S ADDRESS, DELIVERED AT THE MEETING OF THE GRAFTON AND COÖS BAR ASSOCIATION, AT WOODSVILLE, N. H., JANUARY 31, 1896.*

Gentlemen:

Our ears are constantly assailed by complaints about the times, and the voice of the croaker is never hushed. There is a vast difference, however, between the involuntary wail of a distressed people when great public calamities occur, and the loud noise of the habitual faultfinder. The constant uproar kept up by individuals, disgruntled by real or imaginary wrongs, alarms the timid and the nervous, and at the same time greatly annoys cooler and more level-headed people. These nuisances who are always on the wrong side of everything work their greatest mischief and do the most harm by taking sides against their own government in all its controversies with foreign nations, and by denouncing every effort of our rulers to vindicate the national honor, secure the public welfare and preserve the respect of mankind. The evolutionary forces that are constantly operating upon politics, and upon all social organizations cause change to succeed change. The men and interests that yesterday were basking in the sunshine of favor today exchange places with the men and the interests that yesterday were shivering in the cold. It is indeed an ill wind that blows nobody any good. Very rarely, if ever, has human experience encountered calamities so searchingly disastrous that somebody has not derived therefrom comfort and profit. We have little fear of being demonstrated to be in error, when we say that there always will be rejoicing where there is mourning, and that there always will be mourning where there is rejoicing. The cup

*Mr. Bingham was moved to the preparation of this address by certain articles appearing in the Reviews shortly before from the pen of Prof. Charles Elliott Norton of Harvard University.

that humanity drinks is a cup of mixture. Let what will happen somebody is sure to be disappointed, and some other body is sure to be gratified. The one who is gratified probably will be quiet, while he who is disappointed will clamor loudly and charge frauds and wrongs that are perhaps groundless. The mind imbued with a little philosophy, in view of these facts, will conclude that there is no safety in harkening to what everybody says, or in drifting with the floodwood on the popular tide; that convictions founded on careful observation and conscientious study are the true guides; that plans carefully considered and approved by the conscience and the judgment should be put in execution, and that Davy Crockett has given the true rule in these few words, "Be sure you are right, then go ahead."

At the present time the habitual faultfinders are lifting up their voices with unusual vigor, in denouncing the recent action of the federal executive in regard to international affairs. The obvious intention of the British government to appropriate a large territory to its own use, contemptuously disregarding the earnest claims of Venezuela thereto, compelled President Cleveland, after due remonstrance, to take decisive action. The Unitd States could not remain quiet and tamely acquiesce while Venezuela was being robbed of her territory by a European power, without ignominiously surrendering the Munroe Doctrine — a time-honored doctrine, steadily upheld and sanctioned by our people. Our government could not surrender that doctrne to British domination without sacrificing the honor and prestige of the nation, its own self-respect, and the respect of the world.

In this emergency, President Cleveland, with dignity and firmness, as became the chief magistrate of the leading nation of the American continent, stood up and announced that Venezuela, being an American republic, was shielded by the Monroe Doctrine; that her claim to the disputed territory must be considered, and if impartial arbitrators awarded it to her, then she must not be stripped of it forcibly by any European power.

The great body of the American people are patriotic, and all patriotic Americans indorse and uphold President Cleveland

in enforcing the Monroe Doctrine. The habitual faultfinders have received some accessions to their ranks. A few college presidents and professors, a few clergymen, a few business men and their cheap hangers-on, and a few newspapers have joined in the hue and cry against the Monroe Doctrine. Also a few persons, once our countrymen, who have partly expatriated themselves, and are seeking admission, or have obtained admission or *quasi* admission, into the high-toned circles of European society; and also some low-down, coarse, millionaires, who, hankering with untutored desires for elevation above their surroundings, are seeking to buy marriages for their daughters to impecunious members of the titled aristocracy of Europe, are terribly shocked at the idea that there may be war with England.

It does not seem to have dawned upon the understanding of any of these parties that there is such a thing as national dishonor, or that shame will follow base submission. They can see nothing but the narrow course of their own selfish lives, and whatever interrupts that they denounce. The college presidents and professors and the clergymen have especially portrayed in vivid colors their admiration for England, and their recognition of the alleged strong ties that bind its people to our people.

Their admiration extends to all that England does, whether it be plundering the unresisting natives of far-off countries and afterwards dominating over them with an iron hand, or whether it be planting colonies in waste places, that grow and thrive until they rival in Anglo-Saxon energy and progressive civilization the parent stock itself, or whether it be evangelizing heathen lands, whose unhappy natives, as the Gospel is dispensed among them, wither and die out, as tender summer plants wither and die when the autumnal frosts arrive.

The college and clerical friends of England lay great stress upon the tie of kindred, and allege that the English people are our blood relations, who are marching side by side with us in the great work of Christianizing, civilizing, and enlightening mankind. One of these college professors, in a recent article published in one of our leading literary periodicals, after extolling the ability of the English government to maintain wholesome

rule over a remote people not suitable to be incorporated into any civilized commonwealth, suggests that it would be a great blessing to the United States if England would take the possession and control of the island of Cuba and the Hawaiian Islands; that England would soon reduce the diverse and discordant races of those islands to subjection, and make it safe to do business there; that the American people, being so near to those islands, could develop them, secure their trade, and possess all the advantages that the islands afford, while England would bear the burden and cost of governing them; that the United States could not, under our form of government, possess and rule those islands as outlying provinces, and did not want them, on account of the character of their inhabitants, incorporated into the Union as states.

This collegiate professor who made the foregoing suggestions might have illustrated his statesmanship still further. He might have further suggested, with equal or greater propriety, that the thirteen original colonies, who foolishly declared their independence in a little frolic they had on the 4th day of July, 1776, humbly petition Mother England to forgive their youthful indiscretions, particularly that little escapade of throwing the tea overboard into the waters of Boston Harbor; and also to forgive the many indignities with which the glorious flag of England was assailed, and to overlook the forcible resistance made by perverse rebels to lawful authority at Bunker Hill, Bennington, Saratoga, Yorktown, and divers other places, and to receive repentant rebels once more into the bosom of their benign mother, whose wonderful capacity to govern and love of governing will save the returning prodigals from the burdensome labor of governing themselves.

The learned collegiate professor-statesman might also recommend that the thirty-two states which have been added to the Union since the estrangement be tendered as applicants for the blessings of being governed by England, and as a propitiation for wrongs done. We submit that what is referred to by us as actually embodied in the essay of the college professor is a gross and unpatriotic libel upon our country and its governing power.

The assertion that our government has not the power and abundant precedents for the exercise of the power to annex and govern foreign territory is false. The magnificent Louisianian territory purchased by Jefferson, and out of which so many states have been formed—Florida, Texas, California, New Mexico, Utah, Arizona, and lastly Alaska—were once foreign territory, and they have been annexed to, and governed by, the United States, and are now part and parcel of our vast country. Is there an American who willingly would part with any of these territories,—even Alaska, with its ice-bound and desolate shores? If the course of events should make it desirable or for the interest and safety of the United States to annex Cuba and Hawaii, either or both, and it can be done without wronging anybody, then it should be done. There can be no doubt about the competency of the United States to govern those islands as territories and admit them to statehood only when fitted for it, and in short to deal with them in all respects as the United States in the past has dealt and is now dealing with its territories.

The idea that England knows how to govern, but the United States does not; that the United States will secure more trade and derive greater advantages by having England possess and govern Cuba and Hawaii than it possibly can by accepting those islands as a part of its own territories, is the idea of one who has not got an American heart and who is profoundly ignorant of the history of England and his own country and is particularly ignorant of the motives that control England in all she does. The thirteen colonies that formed the nucleus around which has grown the United States as today constituted, were planted mainly by English colonists of high moral and intellectual standing, who sought homes in the wilderness that they might be free and at liberty to enjoy their religious opinions unmolested.

So far as these colonies were augmented by emigration subsequently to their planting, it was emigration from the most energetic and enlightened portion of the English population. What was best in the customs, laws, and institutions of England and was adapted to the condition of these colonies was transplanted and made the basis of their customs, laws, and institu-

tions, and thus at the very beginning they started with the full benefit of all the civilization which England then had, purged of feudalism, barbarism, and whatever else was bad and not wanted. At the inauguration of the Revolution, American statesmen were pitted squarely against English statesmen, and the history of the Revolutionary period, together with that of the subsequent period down to the formation and successful launching of the Federal Constitution, furnishes a grand opportunity to compare the knowledge that the statesmen and people of America possess of the science of government with the like knowledge of the statesmen and people of England, and to judge which of the two has the better capacity to govern either themselves or anybody else. A verdict upon this evidence fairly rendered cannot be otherwise than in favor of the statesmen and people of America.

It may be said that since Revolutionary times our people and our statesmen have deteriorated, while the English people and statesmen have improved in the art of government. The suggestion that the American people have degenerated is false. American pride cannot tolerate and ought not to tolerate such an idea for a moment. Free institutions, inspiring examples, and universal education are not the conditions under which a people like ours degenerate. On the contrary, any people who have the seeds of progress in them under such conditions must improve. It is undoubtedly true that the masses of the people today are, as respects moral and intellectual power, nearer equality with the men who are their leaders than the masses of the people in Revolutionary times were with the men who were their leaders. This comes from not limiting education and training to the few, and the consequent elevation of the masses of people in moral and intellectual power.

The times indicate that our people know what good government is, and that they are bound to keep trying till they get it. The man who today accepts an office of responsibility knows he must do his work well or official decapitation will follow. At the present time the great body of the people, having been educated and trained to think for themselves, are intelligent and with keen discrimination are seeking for rulers, men that are qualified

to govern. The ballot is swift to correct any mistake in the choice of a ruler found on trial to be incompetent.

It is certain that the officeholder who by reason of incompetency disappoints expectation cannot rely upon the fealty of the voting masses of his party to keep him in place, and there can be no doubt that the ability of the American people to govern themselves and others has not deteriorated but improved since the days of the Revolution, and that as respects Cuba and Hawaii, the United States and not England is the nation to be relied upon as capable of governing those islands with good results.

None of the dependencies of England have prospered as the United States has prospered. Canada has been treated probably with greater equity and more liberality than any other province of England, and yet progress is very slow there. Its growth is very little, with a great deal more emigration from it than to it. If Canada were made a territory of the United States, unquestionably there would be a great change for the better. Population would multiply rapidly. Land would rise in value. In the place of stagnation, there would be life and activity. Prosperity would be general throughout its borders.

The history of Ireland shows that England knows how to tyrannize over a people, and teach them to hate her with an undying hatred; but the evidence afforded by that history upon the question of England's capacity to govern well, tends directly to demonstrate that she is incapable of administering good wholesome government over a people, and making them happy and friendly to her.

The shrewd suggestion of the college professor that if England would assume the burden of governing Cuba and Hawaii, it would give this country, without incurring responsibility or expense, all the profit that could be made out of those islands by the way of trade, or otherwise, betrays the most childlike ignorance of what England really is, and the motives that underlie all her movements. The greed of England for trade is a mania. While holding with a relentless grip the monopoly of her existing avenues of trade, she is encroaching everywhere, and scouring the world over in search of new ones. She has

maintained the integrity of the Ottoman empire for the last half century, and enabled the sultan to butcher thousands upon thousands of Christians for the sake of making secure her monopoly of the trade of the Mediterranean. In her quarrel with Venezuela about territorial boundaries, she is seeking the control of the mouth of the Orinoco River, thereby securing a new avenue for future trade. If Cuba and Hawaii were controlled and governed by England, she would take for herself all their trade and all the other advantages those islands might afford. As a greedy child is swift to swallow sweetmeats when permitted, so would England be swift to take Cuba and Hawaii if the United States would permit it, and when she takes them, the taking will be for her own exclusive use.

This little knot of faultfinders, college professors and clergymen, whatever the merits of the controversy may be that arises between England and the United States, can be calculated upon always as sure to be against their own country. They continue, with increased vehemence, to uphold the action of the English government, and condemn the action of their own government, after the English people themselves have emphatically expressed a different opinion. They unqualifiedly condemned the position of President Cleveland, that England ought to submit to impartial arbitration, the dispute about the Venezuelan boundary, and at the same time they warmly commended the refusal of Lord Salisbury to assent to such an arbitration. They still continue their abuse of Cleveland and their laudation of Salisbury, and their allegations that Cleveland's proposition to arbitrate is an insult to England, notwithstanding the fact that the great body of the English people condemn Lord Salisbury's refusal to arbitrate and insist on the acceptance of the identical plan for arbitration proposed by President Cleveland. It is a lamentable fact that here, in our very midst, we have men, calling themselves men and assuming to be potent in our affairs, whose hearts are alienated from their own country and absolutely devoted to England. They have no shame. Not a blush mantles their brazen cheeks when their championship of England as volunteers is repudiated by the English people. On the contrary, their noisy abuse of their own government grows louder

and louder. There is one great consolation, however, to be mentioned in this connection. These enemies of their own country are getting less and less numerous as time passes away. Although they may be more venomous than the Tories of the Revolution or those men, who, in the War of 1812 gave treasonable aid and comfort to our enemies, yet their numbers are but a mere speck when compared with the multitude of Tories in the War of the Revolution, or with the multitude of our countrymen who sided with Great Britain in the War of 1812. There is certainly a good prospect that this annoying, unpatriotic and disreputable element of our population ultimately will disappear altogether.

The great body of our people are strong in their patriotism. They believe in the republic and its mission. They never will tolerate an administration that shirks its legitimate work, or skrinks from taking the attitude and adopting the measures which the honor, dignity, welfare, and safety of the nation demand.

An inquiry naturally arises here as to the origin of this bad element in our population that so instinctively favors England, and so perversely opposes its own country. Its exponents seldom use arguments in their trade, and when they do, they utterly disregard consistency. This irrational faction always opens its batteries on the position of our government, whenever there is a dispute with England. War in general is denounced as wicked *per se,* and horribly wicked when it occurs with our blood relatives, the good people of England. Yet no general principle is advocated that would justify the denunciation of war as wicked *per se.* These faultfinders, with their collegiate and clerical allies, do not adopt the doctrines of the non-resistants except as to England. The genuine non-resistant is logical. He advocates fundamental principles, from which his conclusions can be drawn logically. He holds that the use of force at all times and under all circumstances is wrong; that those who take part offensively, and those who take part defensively, in war, are both alike in the wrong; that all human government resting as it does for support on the sword is wrong; and that no man has a right to use force in defense of his own life. What-

ever may be thought of the doctrines of the non-resistants, it is certain that their conclusions follow logically from their premises.

The absolute devotion of our Anglican worshipers to England cannot be justified upon any ground except the assumption that England can do no wrong; that whatever she does or claims is right, and that whoever does not acquiesce in all she does and desires is in the wrong. Upon this broad assumption as the ground of their action they can stand and logically defend their conduct. They dare not avow openly that this assumption is the ground of their action, although in their hearts they respond to it, well knowing that any such utterances in the ears of the American people would be received with great indignation. Not daring to state the real motives for their action, they seek for plausible ones. Hence the cry about the horrors of war between kindred and blood relatives. This cry, however, on a consideration of the actual situation is not sufficiently supported by the facts to make it even appear to be a *bona fide* utterance. There is only a fraction of the present population of the United States that can claim descent from an English ancestry—all the other nations of Europe have contributed towards making up our population, some of them largely. Asia also has furnished some emigrants for the United States, and the American citizens of African descent are numerous. So far as that portion of our people who can claim an English ancestry is concerned, the English ancestor emigrated here as a general rule many generations ago, and the instances must be very few where a tie of kindred is now actually recognized between a citizen of the United States and a citizen of England. We have had two wars with England, both of a sanguinary and embittered character, and at times when this kinship between the two people was much nearer than it is now.

The American who loves his country must have the memories and traditions of its past treasured up in his heart, and no gushing fondness that he could have for England and some forty-ninth cousin possibly dwelling within her boundaries would make him consent, for such a reason, that the safety and welfare of his country be endangered, or that its name be dishonored and made a by-word and a reproach.

There is nothing in the past that imposes upon us the obligation to grant special favors to England. On the contrary, she has never been our friend when we needed help. Once when our need was sorest France gave us substantial aid. If at that time France had not given us her aid, it is impossible for us now to see how American independence could have been established, or what would have saved George Washington, John Adams, Benjamin Franklin, Thomas Jefferson, and their associates from being hanged as traitors on English gibbets. In the course of events our independence was established, and having prospered we stand today on equality with the great powers of the earth. Every nation is in peace our friend, in war our enemy. The mutual obligations that exist between us and every other nation require each to render to the other exact justice. In our international dealings with France and England we must treat both alike, although one has done us favors and the other has not. We must be just to both, and we cannot submit to be wronged by either without being disgraced as well as wronged.

The unyielding and unreasoning devotion of the worshippers of England that dwell on this side of the Atlantic itself suggests their origin. With their surroundings, no such instinctive, spontaneous adherence to the cause of England could exist here now unless in accordance with the laws that govern heredity. The poison of other times has been transmitted from generation to generation down to the present day. This poison is in the veins of our worshippers of England at their birth and controls them through life. They inherit it by regular descent from the Tories of the Revolution, and from the opponents of the War of 1812. Of all the bad work that these enemies of the country are doing the worst is, perhaps, the resistance they are making to any expenditure by the government for the fortification of our defenseless cities and coasts or for building up a navy or for any purpose of defense.

They even object to allowing boys at school to take their necessary exercise in the form of a military drill. They say all this nurses and keeps alive the war spirit. In view of the fact that England as a menace to us maintains immense fortresses on or near all the North American coasts as naval stations and

military depots, and that in twenty-four hours after notice iron-clad ships can issue from those stations, ravage our coasts, levy tribute on our cities, or plunder and destroy them, such resistance to the erection and maintenance of defenses necessary for the protection of interests so vast in importance to the country must be regarded not merely as unpatriotic, but as an open manifestation of the criminal intent which, when accompanied by the overt act, constitutes the crime of treason.

There is an argument in universal use among those who resist every proposition to look after the national defenses and see that the exposed parts of the country are duly protected. This argument consists in slinging the euphonious word "jingo" as an epithet at every man who dares to suggest that the country ought not to be left wholly defenceless. This argument, by many repetitions, is piled up mountain high whenever a word is heard in disparagement of England, or in condemnation of her acts. If a bold citizen should be so presumptuous as openly to declare that "our country has some rights that England must respect," he would be charged with threatening war, and the epithet jingo would be hurled upon him in such quantities that his ability to get out from under the load into the light of day would be doubtful. The advent of the word jingo is so recent that the public only know it as a term of reproach. The consequent mystery that enshrouds the meaning of the epithet leaves the victim at whom it is hurled dazed with uncertainty as to what the awful thing is of which he is accused. It will always embarrass a disputant to be assailed by epithets the meaning of which he does not know. It was the knowledge of this fact that enabled the great Irish agitator, Daniel O'Connell, when a young sprig of the law, to win a wager which he made with some other youthful members of the legal fraternty that he could vanquish, in wordy warfare, a voluble old Irish woman who was notorious on account of great ability to abuse with the tongue and to blackguard. O'Connell refreshed his memory with the names of the various figures in geometry, and commenced upon the old woman by saying, "You infamous old parallelogram! you defunct hypothenuse! you are not fit to be made into either trapeziums, or trapezoids," and continued this attack with volubility,

using for epithets the figures in geometry. The old termagant was amazed. These words were not in her vocabulary, and seemed terrific to her. She could not match them, and subsided, leaving to O'Connell an easy victory.

The word jingo, however, probably has served now in the place of argument about as long as it can. The friends of England must find something else with which to protect themselves from the just indignation of the American people. Whatever may be said about the two great Anglo-Saxon nations, as to their being of the same blood and speaking the same language, it is certain that England has been our bitter enemy. When did she become our friend? As recently as our late Civil War, she showed unmistakably that she was not our friend. She then manifested plainly, not only that she was willing but that she would be glad to see our great republic broken up into discordant and belligerent fragments. What has happened since the Civil War to make her more friendly? We have grown more powerful, and the formerly belligerent sections of the Union are now firmly united, but while those facts might tend to make her more shy about showing us ill will, they would tend also directly to augment her jealousy and strengthen existing dislike. The vast and costly fortifications of England on or near our coasts are either worthless or not needed, so far as the defense of her territories is concerned. They are not designed for defense. They are designed for aggression, and for aggression upon us. They are designed for safe stations where the armies and navies of England can congregate and assail us almost instantly.

There is no evidence that at heart England today is any more friendly to us than she has been in the past. As the situation now is, nothing could be more foolish and criminal than to leave our coasts defenseless, cease to build war ships and dismantle the few we have, "beat our swords into ploughshares, and our spears into pruning-hooks," and teach our young men that they must not learn war any more. The history of the world furnishes a multitude of examples illustrating the disastrous fate that overtakes nations when they discard the means necessary to protect them from the assaults of warlike enemies. The great, rich, and populous empire of China furnishes a very recent ex-

ample that demonstrates how foolish a thing it is at this day for a nation to fail to be prepared to defend itself against the modes and implements of modern warfare. A rich country without defenses and inhabited by a timid, unwarlike people, is a standing invitation to all outside adventurers and nations to invade it, to conquer and possess it, stripping the miserable inhabitants of everything, and either enslaving them or driving them into exile. As humanity is, at the present time, the millennial period not having arrived and there being no signs of it, the surest guaranty of peace which a nation can have is the world's estimate that it is a just nation, that it will ask nothing but what is right, that it is prepared for war, and will submit to nothing wrong. The proposition that war is wrong *per se*, and can never be justified, is a proposition which cannot be maintained except upon the broad ground of the non-resistants. Nations have the right of self-defense, and are under legal and moral obligation to engage in war whenever it is necessary in order to protect the lives and property of their citizens. War is right or wrong according to the circumstances that occasion it. Throughout all the ages since the world began wars have succeeded wars in constant succession, apparently in obedience to the fixed laws that regulate the lot of humanity.

In the same manner, storms and earthquakes succeed storms and earthquakes in constant succession, apparently in obedience to the fixed laws that regulate the operations of nature. Our observation teaches us that the winds and storms, while they strew their paths with ruins, purify the natural atmosphere and make it wholesome. In like manner, the student who studies history with a philosophic eye learns that war, while apparently sweeping everything to destruction, produces great changes for the better by removing the obstacles in the path of human progress. He finds, when the ultimate consequences of war are reached, that humanity thereby has gained infinite good. It must be admitted that unjust wars have occasioned much wrong, and yet it would be hard, perhaps impossible, to name a war that did not remove a great evil or in some way improve the condition of mankind. War must be accounted just when it is waged for deliverance from wrongs that can be borne no longer. It is time

for war when a people are loaded with burdens greater than they can bear, and all the remedies afforded by peace have been tried and failed. The inquiry has arisen whether or not the nations of Europe would be benefited by a general European war if it resulted in saving them the immense burden and expense of keeping up constantly preparation for immediate war. All Europe is today, and for some time past has been, covered with military encampments. Each nation is augmenting constantly its immense standing armies, and adding to its accumulation of war-ships and war materials. The young men, the bone and sinew of a country, are soldiers, non-producers and consumers, while the enfeebled industries of the nation, denuded of their most vigorous workmen and laborers, pay the cost. There can be no end to this state of things until the nations of Europe test their respective improvements in the art of war and ascertain their relative strength. That test can only be made by the actual trial of war, which will surely come when the burdens of present conditions have grown beyond the endurance of the people. It is useless to combat the laws which govern the universe, and all that are within it, or to deny the existence of fixed conditions that are inseparable from the lot of humanity. The world and mankind will always move on in accordance with the original plan of creation. No man can change his being; he must always remain a human being, subject to all the laws and conditions of humanity. War, when it is a condition inseparable from the lot of humanity, is right, and must be acquiesced in. War, that comes when nations are ripe for it, is as necessary for the purification and regeneration of human affairs as storms and tempests are for the restoration of salubrity to an unwholesome atmosphere.

CONSISTENT ADHERENCE TO DEMOCRATIC PRINCIPLES.

TWO ADDRESSES BY MR. BINGHAM—THE FIRST AS PRESIDENT OF THE DEMOCRATIC STATE CONVENTION AT CONCORD, MAY 20, 1896. THE SECOND AS PRESIDENT OF THE "NATIONAL" DEMOCRATIC RATIFICATION MEETING, AT MANCHESTER, OCTOBER 6, 1896.

THE CONCORD ADDRESS.

Gentlemen of the Convention:

It is with the greatest pleasure that today I meet the assembled representatives of the Democracy of New Hampshire. The grand old historical party, the Democratic party, has been resting for a season. Sentinels have slept on their posts, and leaders, perhaps for want of proper watching, have not always been true to their trusts. Dissensions have crept in. The enemy has improved its opportunities, and now, intoxicated with a little temporary success, is filling the land with its vain boastings. It is time for the united Democracy to wake up, uplift its invincible arm, and go forth once more to conquer.

The war is over, and the last lingering efforts of faction to keep alive its animosities have ceased. The negro, having been elevated to citizenship and endowed with civil rights, upon equality with the white race, furnishes no longer food for mischievous and dangerous political agitation. Peace reigns. Constitutional limitations, heedlessly trampled upon in the reckless fury of armed conflict, have been vindicated, and their vitality restored. Tendencies towards the centralization of power in the federal government, by encroaching upon the reserved rights of the states have been arrested. The people are no longer threatened with force bills, and legislation kindred thereto has been repealed. All this has been accomplished by the Democracy of the nation. Through its united action the perils consequent upon our desperate Civil War have been passed, and

the country restored to its normal conditions. The political questions that naturally engage the public attention in times of peace are now before us. Those questions are economic and financial questions. It is indispensable in order to secure the prosperity of the country as a whole, and the welfare and happiness of the people individually, that there should be no unjust taxation, and that there should be a safe and reliable currency for the transaction of business. The expenses of the government economically administered, and the satisfaction of the national indebtedness, are the only legitimate grounds for federal taxation. The business man, the salaried man, the wage-earner, and everybody who has occasion to purchase and sell, must have a reliable dollar of steadfast value. Otherwise they are subjected in their daily transactions to financial loss. Tariff taxation is legitimate only for the purpose of raising sufficient revenue to meet the necessary expenses and obligations of the government, and whenever this power is perverted and used so as to extort money from the masses and put it in the pockets of the few, robbery is committed, the general prosperity of the country is paralyzed, the few are made millionaires, but the masses are pinched and impoverished; great interests, the maintenance of which is of vital importance to the national welfare, languish and die out. Our prohibitory tariffs and kindred navigation laws have practically destroyed American shipping, and our flag that once floated on the breezes of every sea, and could be seen in all the ports of the world, is now a rare curiosity in foreign waters. We have ceased to educate our young men to a sailor's life, and the gallant American tars that in former days thronged our ports and manned our ships are gone, and have left no successors behind them. Our government is experiencing infinite difficulty in obtaining seamen sufficient to handle the few war vessels that have been built as a beginning of a navy, which at last all have come to realize is essential to the national safety.

A just system of taxation and a sound currency must be maintained. With those things made secure there will be national prosperity. All legitimate industries will thrive, the laborer be content, the people happy, agriculture, manufactures,

and commerce will progress with equal steps and the country take on a steady growth of everything that goes to build up and make a mighty nation. On the other hand let the currency be debased and fluctuating or let the hard earnings of the people be wrung from them by unjust taxation, in either case misery, discontent, and pinching poverty are sure to come on the masses, while their life-blood is being sucked up by the few who riot amid their country's ruins.

The next National Democratic Convention will have a most solemn and trying duty to perform. Amid the wild vagaries upon economical and financial subjects that today are floating loose in the popular mind, a national Democratic platform must be erected, based upon Democratic principles, broad enough so that every true Democrat can stand upon it; plainly expressed, so that but one construction can be given it. Candidates for president and vice-president must be placed on that platform whose political lives and record are an embodiment of the principles therein set forth. There has been and is considerable agitation as to what should be put in that platform on the subjects of the currency and tariff taxation. We find that today the selfish few are seeking, as in the past they have always sought, special advantages for themselves at the expense of the great body of the people. The monopolist, manufacturing an article of public necessity and seeking to extort from the consumers thereof more than it is worth, applies to the government for a prohibitory tax on all importations of that article, and, having obtained it, he compels all consumers to pay for the thing he manufactures just what he pleases to demand, and this kind of legislation is styled by the advocates of monopoly "Protection to American industry." The producers and owners of silver bullion ask the government to enact a law authorizing the free coinage of gold and silver at the ratio of sixteen ounces of silver to one ounce of gold. Such a law if enacted would give the owners of silver bullion for every sixteen dollars' worth of bullion thirty-one dollars in money with the government stamp upon it as such, with which to cheat and defraud the public. The monopolists, whose power to plunder the masses was much curtailed by the passage of the Wilson bill, and who are seeking

the restoration of McKinleyism and prohibitory tariff taxation, constitute the head and front of the hosts that are clamoring for the nomination of William McKinkley as the Republican candidate for president and furnish the war material for the aggressive campaign now carried on in his behalf.

The owners of silver mines and those who will be directly profited by disposing of silver for more than it is worth are the leading, pushing advocates for the free coinage of silver at the ratio of sixteen to one. The McKinleyite and the Free Silverite have a common purpose; both are asking the government to aid them in robbing the people; both abound in specious arguments for seducing the unwary, in unscrupulous promises and corrupt devices to enlist with them those who in that way may be thus enlisted. There is necessity for the watchman on the towers of Democracy to be on the alert now, as much as ever. We must remember that eternal vigilance is the price of liberty. Our arch enemies, now in this guise and now in that, are always seeking to undermine the strongholds of Democracy, encroach upon the rights of the people, and to break up the very foundation of the country's prosperity for the sake of promoting the interests of the few. We may safetly calculate that the McKinleyite and the Free Silverite having a common purpose will be found, when the final struggle comes, standing together and with their united strength mutually aiding each other to accomplish their respective ends. Already overtures contemplating a combination of their powers have passed between them. There is but one course for the Democracy to pursue and that course is to stand unflinchingly upon their principles; upon their principles as taught by their great teachers, by Jefferson, Madison, and Jackson, and as hitherto acted upon. Circumstances and conditions are always changing, but principles never change. In applying unchanging principles to changing conditions care must be taken that a correct application is made. It is indispensably necessary for a nation's welfare that legislation should so adapt itself to changed conditions that just taxation and a safe and reliable currency are always made secure.

The Democracy of New Hampshire has a history of which we may well be proud. It has always presented a fearless front,

and marched steadily forward with unbroken ranks, whether crowned with victory or loaded with defeat. Out of its ranks have come men who were illustrious leaders in the great national Democratic party. It can boast that a Langdon, a Woodbury, an Atherton, and a Pierce once trained in its ranks. God forbid that in the approaching presidential campaign any lack of wisdom in counsel or energy in action should cast a shadow on the glorious memories of the past. It is not doubted that the good and true men whom today you appoint delegates to the National Democratic Convention will steadily insist upon a platform based upon sound Democratic doctrines. There are indications that unsound and dangerous theories in regard to the currency may be presented and urged in that convention. The enemies of the Democracy are tauntingly proclaiming to the world that we shall be compelled in the National Democratic Convention to adopt a platform favoring the free coinage of silver at the ratio of sixteen to one. The paralysis of all business, the ruin and bankruptcy that inevitably would follow the enactment of such a proposition into law are so palpable that all sane men who consider would instinctively oppose it. As our country is situated with reference to the great commercial nations of the globe it is only mad men that can deliberately urge the free coinage of silver. The great body of our people are not mad. They never will vote for the free coinage of silver at the ratio of sixteen to one with the disastrous consequences of inaugurating such a measure plain to be foreseen. The incorporation of a free silver plank in the Democratic platform will insure in the coming presidential contest our certain defeat, and not only that, but the splendid record of the Democracy will be disgraced, its good name tarnished and the confidence hitherto reposed in it by the people greatly shaken, perhaps lost forever. It is hoped that no such calamity awaits us.

The Democracy ought to triumph in the next presidential election. The welfare of the country demands it, and therefore let no such unwholesome and paralyzing plank as the free coinage of silver at the ratio of sixteen to one be inserted in our platform. Let our delegates from New Hampshire, let every other good and true Democrat watch, labor, argue, and pray for a

platform based upon the principles of a genuine Democracy. The truth is mighty and if uttered with zeal and wisdom must conquer. It is believed that if all sincere and leved-headed Democrats with conciliation and firmness strive earnestly with our misguided brethren in the convention they will prevail, and the platform will be all right, and on it will be placed a candidate who will be invincible. In the meantime let our watchword be "a sound and reliable currency and no more McKinleyism."

The questions which are likely to be urged immediately upon the convention and there provoke hot debate relate to the currency and tariff taxation, but there are other questions to be considered there which demand careful attention; among them are the questions in regard to our foreign relations. Our country is the leading nation on the western continent and the guardianship of the affairs of that continent is a duty we cannot evade, and which we ought not to try to evade. Our duties are performed, our interests are subserved by promoting the welfare of the lesser republics of America. The many great and magnificent states that have been added to the Federal Union out of territory fairly acquired under and by Democratic administrations illustrate what the Democratic policy as to territorial acquisition has been in the past. The fruits of that policy are also thereby illustrated. Are there any reasons for a change of that policy? Ought we to refuse a territorial acquisition that is begging to join us, that is desirable for us to have, and if it is accepted by us nobody will thereby be wronged?

Cuba, that beautiful island which lies so near our shores, is the theatre whereon is now raging a warfare carried on with barbarities that would shock a Comanche Indian and make him recoil therefrom. Is the fact that Cuba ought to be a part of the United States, and perhaps some day may be, any good reason why we should turn a deaf ear to the agonizing calls of its gallant, suffering, and outraged people? The requirements of International Law and good faith in the performance of treaties must be duly observed. So, too, the calls of humanity must be heeded, and when, under the pretence of waging civilized warfare, neutral men, helpless women and children are barbarously

murdered, the hand of the murderer should be arrested and compelled to confine its work to legitimate war. Situated as our country is with Cuba, and its wrongs at our door and before our very eyes, our government should protest against these inhuman butcheries in language not to be misunderstood, and if that protest be disregarded then the strong arm should intervene. We cannot do less than this and preserve our self-respect and be able to ask for ourselves the favorable consideration of the civilized world. Let the plank in the Democratic platform touching our duties and obligations in respect to foregn affairs be grounded on a policy that fully recognizes all our duties and obligations to both the oppressor and the oppressed and at the same time demands for ourselves what is necessary for the preservation of our national self-respect.

THE MANCHESTER ADDRESS.

Ladies and Gentlemen:

Recent events have threatened the great Democratic party of America with absolute annihilation as to everything except the mere name. The late convention of the Democracy, duly called and convened at Chicago, was invaded, stampeded, and controlled by its enemies, and the platform there adopted is in utter violation of Democratic principles as understood and acted upon since the foundation of the federal government; but it is in accordance with the ideas of the Populist, and so framed that it invites the support of the Anarchist, the Nihilist, and every other disorganizing element of society. Candidates were nominated and put upon that platform and pledged to its support. The usurpers dominating that convention turned their backs with scorn on Grover Cleveland, the only Democrat who has held the office of president since 1860, and insultingly refused to indorse his administration, although he has honestly and faithfully administered the government in accordance with the platform on which he was elected — the Democratic platform of 1892.

The firm hand with which Grover Cleveland as president has

kept faith with the Democracy, upheld, and still upholds, the honor and dignity of this great nation, will stand out in bold relief on the pages of the future historian, and his name will not there be dimmed, but will shine brighter by reason of the calumny and abuse that Altgeld and Tillman and kindred vilifiers are now heaping upon him.

In order that Democracy might live, and that Democrats who keep the faith might have a rallying point, another National Democratic Convention has been called, and holden at Indianapolis on the second day of September last. That convention adopted a platform and nominated candidates. The platform is a clear, concise, but complete, statement of the fundamental principles of Democracy, and the candidates placed thereon—Gen. John M. Palmer of Illinois, for president, and Gen. Simon B. Buckner of Kentucky, for vice-president—are men whose records demonstrate that they are fit exponents of the platform.

We are here today to ratify the work of the Indianapolis Convention.

The necessity that demanded what has been done by this convention is obvious.

Without its action there would be now no ticket in the field which a Democrat true to the principles of his party could support. On the one hand would be the ticket and platform presented by the Chicago Convention, with its Bryanism, Altgeldism, and Tillmanism masquerading in Democratic uniform, and on the other hand the Republican ticket and platform, with a plank in favor of sound money and a presidential candidate whose views on the financial question may be all right now, but were for a long time in doubt by reason of his antecedents and his silence. Aside from its present position on the money question, the Republican party is and always has been opposed to Jeffersonian Democracy. It is and always has been for high protective tariffs, for force bills, and for despotic measures that centralize power and encroach on the reserved rights of the states and the people. Democrats, who have drank at the fountain heads of Democracy, and who know and love Democratic principles, can never support either of these tickets. To them the grand candidates nominated at Indianapolis, and the great

Democratic truths set forth in the platform there adopted, are most welcome. Standing on that glorious platform they are themselves again. Once more with vigor they can assail McKinley tariffs and the centralizing tendencies of the Republican party, and, at the same time, be free to denounce the heresies of the Chicago platform. Ever since the commencement of the War of the Rebellion, protective tariffs, more or less burdensome, have oppressed the country, and have compelled the masses of our people to pay high for what they bought, while they could sell their products only at a low figure. As a consequence they have been growing poorer and poorer, until selfish and interested persons have been able to persuade them into the belief that cheap money will furnish them the means of paying their debts and restore prosperity to them and the country. It is certain that a large share of the work that has created the conditions which have made this cheap money craze possible, has been done by protective tariffs.

If the presidential candidate of the Chicago Convention be elected, and the financial plank of its platform be carried out, our currency must go at once to a silver basis. Gold will disappear from circulation. We shall be loaded with all the disgrace that can follow the outright repudiation of nearly one half of all our debts, both public and private. Such a radical change must create panics and disorders of infinite magnitude. The state of affairs that will then exist, to be realized must be seen. We shall have no credit abroad, and at home capital will seek a hiding place. Values will be unsettled and constantly fluctuating. Nothing will be certain. Speculation and fraud will be rife, and the honest and unwary will be at the mercy of the shrewd and unscrupulous.

And when at last the shock of the great change has spent itself, and the business elements have settled down and adapted themselves to the new conditions, we shall find ourselves on a silver basis, and side by side with Mexico and China, whilst all the great commercial nations of the world abide by the gold standard, leaving us in our intercourse with them to all the disadvantages which our folly may have brought upon us. The presidential candidate of the Chicago Convention, Mr. Bryan, is

now on his travels through the country, scattering his oratory in profusion everywhere. He deals in all the tropes and metaphors known to rhetoric, and is master of the oratorical art. Enraptured with the melodious sounds of his own voice, and the great applause and flattering adulations of the admiring crowds that follow him, he soars on the wings of his imagination high above the dull, prosy regions of cold facts and hard reasoning. The vivid pictures painted by Mr. Bryan's exuberant fancy of the overflowing abundance that will bless this country, if he is elected president, has no counterpart save in fairy tales. With infinite assurance, he makes assertions that cannot be true, unless all the experiences of mankind in the past, and our own common sense, are both utterly at fault. For instance, he asserts that with the silver market of the world overstocked, and the present vast production of silver susceptible of indefinite future augmentation at small cost, with silver demonetized by all the great commercial nations on the globe and by many of the lesser commercial nations, and with Russia and Japan about to demonetize it, the United States government alone, by a simple fiat decreeing the free coinage of silver, can double its value everywhere all over the world and bring it to parity with gold at the ratio of sixteen to one, and that, at the same time and by reason of the same fiat, values of labor, of all production, of all commodities, and of every kind of property, will also be doubled.

Nothing like this is recorded as ever having actually occurred in the historic experience of mankind. On the contrary, the history of every age has pages that record the wrecks, disasters, bankruptcy, poverty, and crime, which have been caused by fiat money. It is certainly to be hoped that we are now sufficiently enlightened so that we will heed the warnings of the past and not, with our eyes open, deliberately repeat its follies. The sad experience of France in the destitution and distress occasioned by the Mississippi scheme of John Law, culminating in the year 1720, and in the infinitely greater ruin and suffering brought upon her by the fiat money, called assignats, issued under the leadership of Marat, Danton, and Robespierre, in the wild fury of her bloody revolution, taught her a lesson —

yea, burned into her, as it were, with a red-hot iron — a terrible lesson which she has remembered unto this day. As a consequence, France has maintained with great watchfulness ever since, and for nearly a hundred years last past, a sound money currency, and now the masses of her people, her laborers, mechanics, and peasantry, are richer and have more money than the corresponding masses and classes of any other country in the world. We, too, short as has been the period of our national existence, have had lessons on this subject that none of our people who can consider, will ever forget. In the War of Independence our fathers issued fiat money, called at the time continental bills of credit, and enforced, or attempted to enforce, its circulation by legal-tender and penal enactments. Everything arose to an enormous price. Issue after issue of this money was made, while its credit continued constantly to depreciate, until it took $500 to pay for a meal of victuals. The whole business was then abandoned, leaving the worthless bills mostly in the hands of the soldiers and the poor. The rich generally took the precaution, while it was yet current, to invest what came to their hands in property of permanent value. The wrong, the injustice and the suffering wrought by continental money was incalculable. Speaking of it, a close observer, living in those times, says: "Continental money did more than the arts and arms of the enemy towards demoralizing the people and paralyzing every effort of the brave and patriotic." Independence was won after the overthrow of continental money, and on a specie basis. Our later experience with the legal-tender greenbacks has been a sorry one. Our financial trouble at the present time, and since the War of the Rebellion, can be traced fairly to the legal-tender greenbacks issued under the assumed exigencies of that war. A competent financier after a careful calculation says: "The greenback issue made the cost of the war to the government upwards of a billion of dollars more than it would have been if the finances had remained on a specie basis; and in addition to the loss inflicted on the government, a still greater loss was inflicted on the people. The inflation of the currency caused by the greenback issues inflicted on the people a loss of several billions of dollars, by giving to

everything a false value and stimulating speculation, extravagance, and injudicious investments without limit."

But, without the aid derived from a study of the past, the common sense of every individual ought to be able to reject these absurd statements of what free silver will do if established, as the mere dreams of reckless dreamers.

The magical power ascribed to the free coinage of silver by the Silverite sounds in rational ears like the fancy-woven tales of eastern story-tellers, about vast riches and untold treasures showered on favored mortals by beings who do their work outside of, and beyond, the ken of humanity.

The wealth created by Aladdin's lamp was trifling when compared with the immense riches, which, it is alleged, the mere enactment of a few words into law by the United States would create. The idea of the candidate, Bryan, that the mere fiat of the United States can create instantaneously such a vast addition to the wealth of nations, goes far beyond everything that Munchausen himself ever wrote. One of the stock arguments with which Mr. Bryan maintains the free silver cause, is an appeal to our hereditary reluctance to be domineered over in any respect by England. On the eve of a presidential election stump speakers never forget to stir up the hatred which our people have for English arrogance. If no reason for indignation exists a reason is invented. Mr. Bryan talks so much that he can't wait for an idea to germinate, grow, and mature in his brain before he fires it off. In speeches uttered in that manner it would not be reasonable to expect consistency, sound logic, or accuracy. At one time while urging the immediate adoption of free coinage by this country, he tells us that "England and the gold countries of Europe are longing and praying for free coinage, and are only waiting for us to lead off." At another time, while denouncing those who propose to obtain free coinage by international agreement, he says, "No such agreement can be made, — the men making that proposition are not honest; they know that England and the gold countries of Europe never will agree to the free coinage of silver."

Mr. Bryan, however, seldom ceases to twist the caudal extremity of the British lion. He taunts us with being afraid of

England and not daring to remonetize silver without the leave of Lombard Street. He tells us that a hundred years ago, our fathers won from Great Britain with the sword, political independence, — that now we are a great, rich, and mighty people, able to have a monetary system of our own, able to bid Great Britain defiance, and tear off the financial shackles that English greed has fastened upon us. He exhorts us to declare our monetary independence and to coin such money and as much of it as we please, and let England help herself if she can. We have whipped her twice and can do it again. In replying to this argument we must admit that America is a great, rich, and powerful nation; that she already has had two wars with Great Britain with results honorable to her arms, and that if in the providence of God, she finds herself involved again in war with England, we do not doubt that she will do her duty with all the vigor and resolution displayed by our fathers in former wars; but before we engage in a third war with England let us pay her all the debts honestly due her in good money. Although we are a great, rich, and powerful nation there are some things we can't afford.

We can't afford to be mean; we can't afford to incur lasting ignominy and disgrace for the sake of cheating England out of her honest dues by paying her in bad money. Earthly powers and human governments are bounded by limitations outside of which their commands are inoperative. Notwithstanding the might, power, and riches of America, she cannot, by repealing the laws of nature, change the appointed time for sunrise and sunset, nor make something out of nothing. Her fiat ordering either of these things to be done would be inoperative. So, too, her fiat sayings to a piece of metal worth fifty cents only, "go forth into the world and wheresoever thou goest let thy value no longer be limited to fifty cents, but henceforth by virtue of thy own intrinsic worth only, be thou of the value of one hundred cents," would be inoperative, and the value of the metal would remain unchanged. It would still be worth fifty cents and no more. Argument addressed to credulity capable of believing that such a fiat could create value would be lost.

Mr. Bryan betrays a self-consciousness that his financial theo-

ries are unsound, and that their fallacy will be exposed if submitted to men who have had experience in financial matters. He tells his hearers, after setting forth his financial dogmas, to study the subject (evidently meaning that they should read Coin's Financial School and kindred works) and to shun all advice from financiers and make up their minds on their own unaided judgment and act accordingly. But he does not content himself with picturing to the popular eye the vast wealth the world will acquire if he is elected president. He travels on more dangerous ground where greater harm may be done. He strives to array class against class, and especially to stir up those who have not, against those who have. Such a strife is irrational and can do no good and may do great injury. Many a rich man of today was a poor man of yesterday, and rich men of today may be poor tomorrow. We have no aristocracy, no titled classes, and all are equal before the law. We are all, whether rich or poor, common people, and a good dollar is just as good and a bad dollar is just as bad, for one as the other. The talk about one kind of dollar for the poor man and another kind for the rich man, is the grossest nonsense, and can mean nothing but mischief. The man that indulges in such talk is no statesman; he is nothing but a demagogue.

But after all it is not the financial plank in the Chicago platform that gives the worst shock to the nerves of the man who desires to see the fundamental safeguards of our institutions unassailed. That platform threatens the independence of the judiciary, the very rock on which our liberties rest. Let the judiciary become subservient to the tyrant's will or to popular clamor, and liberty is lost. That platform denounces the performance by the federal government of its plain constitutional duty to protect the transportation of the mails and to keep open the pathways of interstate commerce. That platform professing to deprecate centralization demands that the federal government shall usurp power and enact a force bill that would trample the rights of the states and the people underfoot, and centralize power to an extent far beyond anything that Republicanism ever dreamed of in its wildest moods. It demands that the currency be debased and made a legal tender, and that who-

Palmer and Buckner, men whose lives and records demonstrate such debased currency. It is evident that the framers of the Chicago platform cared very little about the rights of the people or the powers of the state and federal governments under the Constitution. They put into the platform just such planks as were necessary to consummate a permanent alliance and ultimate consolidation with Populism and kindred organizations, and enable them to court the support of all combinations that do not hesitate to use violence to attain their ends, and of all the discontented, unrestful, and desperate, who are held in order only by the restraints of law. Mr. Bryan has attended to the work laid out for him in the platform, and has secured his nomination by the Populists, the middle of the road Populists and the Silver party. When the majority that dominated the Chicago Convention is judged by the platform they adopted, and the character of their allies and supporters is considered, and when it is realized that the views of that majority, their allies and supporters, are the views of Mr. Bryan, and are the views which, if he is elected, will control the administration of this government for four years, enough and more than enough appears to cause every right minded Democrat to turn with disgust from any idea of supporting a candidate, whose election would inflict upon the country such an administration. If Bryan is elected or if he is not elected there can be no doubt that those who support him will find themselves when this campaign is over in a consolidated party controlled by the principles of the Populists and led by Bryan, Altgeld, and Tillman. It is wholly immaterial what name that party may bear. It can have nothing in common with the Democracy. Populism and Democracy are entirely unlike. Their principles stand out in direct opposition to each other. The Populist demands that the government be revolutionized and be made a centralized paternal institution. He demands that the government shall own all the railroads and telegraph lines, advance money on crops, pay his mortgage, and, in short, wipe out his individuality and relieve him from the responsibility of taking care of himself by caring for him as a father cares for his child.

On the other hand the Democrat demands that the Constitu-

tion shall be maintained as it is; that there shall not be any centralization of power; that the government shall be administered as Jefferson, Madison, and Jackson administered it; that it shall protect him in the enjoyment of his inalienable rights, his right to life, liberty, and the acquisition of property; that it shall leave him to take care of himself, to stand up in his own individual right as God made him, free, independent, and self-reliant, with full liberty to go and come as he pleases, to pursue happiness along the ways of his choice, and to possess and enjoy the fruits of his labors, always provided that he shall not trespass on his neighbor. The Democrat who is swept along into the consolidated party that the present supporters of Bryan will hereafter form will then find himself no longer a Democrat, but a Populist. Those Democrats of New Hampshire who no longer ago than last May, in a Democratic State Convention duly assembled, joined with perfect accord in declaring allegiance to Democracy and sound money, and who since have changed to the support of Populism and a debased currency, must have seen and learned enough now to make them feel that they are where they do not wish to remain. Such a sudden and radical change in popular sentiment is appalling, and leads to doubt as to the stability of institutions upheld by the popular will. We understand, however, there is a reason for it and that no such unexpected change of attitude in reference to principles where there was no possible chance for a corresponding change in actual belief and conviction could have occurred without a cause.

Honest Democrats indorsed the platform and nominees of the Chicago Convention when its work was first promulgated because they trusted that convention as the regular Democratic body authorized to declare the principles of Democracy and name its candidates; but now, when it is demonstrated that their trust was betrayed, and that if they continue to support the work of that convention they bid good-bye to Democracy and go straight to the Populist camp, they must, as honest Democrats, look elsewhere for Democracy. They cannot go to McKinley, for Democracy is opposed to what he represents. They must go to the work of the Indianapolis Convention. They will find there a Democratic platform, and for candidates they will find

Palmer and Buckner, men whose lives and records demonstrate that into their hands the Democracy can commit with safety the great trust of administering this government. Let the present campaign terminate as it may, the Democrat who votes for Palmer and Buckner may be sure that he votes for men who ought to be elected and that he is helping to form the nucleus around which four years hence the Democratic hosts can rally and by restoring Democracy to power give to the country once more the blessings of a Democratic administration.

THE NEW EDUCATION OF WOMAN.

ADDRESS DELIVERED BEFORE THE GRAFTON AND COÖS BAR ASSOCIATION AT PLYMOUTH, N. H., JANUARY 29, 1897.

Gentlemen of the Association:

We meet today on the fourteenth anniversary of our Association. We meet under circumstances which augur that our present meeting will be a fortunate one. I welcome you here and congratulate you that we are thus well met.

The first thing in order is an address by myself and I suppose something in the form of a written essay is expected, but I am not able to furnish it. I have a subject, however, that I have considered somewhat, and upon which I have intended to elaborate a written essay, but the pressure of other matters and a constitutional reluctance to overwork myself have prevented me from so doing.

I will state the subject I intended to discuss, the points I intended to make, and the grounds upon which I expected to support these points. This contemplated subject may be defined by an inquiry in these words, "What effect will the advent of the 'new woman' have upon the future of mankind?" I use the term, "new woman," in a good sense. I do not mean by it the stormy virago who denounces man as her oppressor, and announces that the women are going to discard their old tyrants and run things by themselves. If the vociferous band of female

iconoclasts execute their threats and entirely cut themselves loose from the men, the time will be limited in which they can make trouble. Soon their lives will be spent and they can leave nobody behind them to fill their places.

I refer to the women who are quietly and industriously availing themselves of the advantages that recently have been thrown open to them. The rights and responsibilities of married women have been especially enlarged, and generally the ways have been multiplied and broadened in which female influence can operate upon society. Women can engage, if they choose, in numerous employments from which they were formerly debarred. Even the learned professions have been opened for them more or less generally, and we have female doctors, preachers, and lawyers. The grand advance, however, that has been made in behalf of women is the movement which opened to them all the doors of education.

That movement must improve the race and greatly accelerate human progress. The physical, intellectual, moral, and religious training of women is to be as thorough as that of men. Literature, science, all branches of learning, are open to both sexes alike; both sexes are taught in the same instiutions, or in institutions of the same grade. What I refer to as the new woman is the woman that is being developed by the progress of the age; a progress of the race, of the same character as the progress that man has been making all along since he emerged from barbarism; a progress which profits the race, one sex as well as the other.

Evolutionary changes affecting the physical, intellectual, moral, and religious condition of mankind have succeeded one another constantly ever since the world began. As a result of these changes there has been progress. The discovery of the laws by which health is secured, pestilence averted, and disease successfully combatted have made it possible to establish sanitary regulations and modes of physical training that have done a great work in saving and prolonging human life, and in developing the stature and muscular power of the human body. Good illustrations of the progress that has been made in physical conditions may be seen in the limitations which have been placed

upon the spread of deadly plagues and diseases, that formerly, at recurring intervals, swept over the earth, scattering death and desolation in their paths; in the years that have been added to the length of a human generation, and in the superior stature and increased muscular development of the girls educated at our institutions, recently established, above their mothers. The intellectual condition of the world has in like manner improved.

Art, literature, and science have progressed. Enlightenment, culture, and refinement prevail where once were ignorance, barbarism, and brutality. Man has subdued, or at least partially subdued, some of the powers of nature, and so far made them subservant to his will that he has accomplished thereby wonderful results. He has put steam under the yoke and has thus secured an immense power for accelerating the march of human improvement. He has obtained such dominion over the tremendous potency of electricity that the brain grows dizzy as it contemplates what his further intellectual developments may accomplish.

Modern morality stands far in advance of the morality of the olden time. Numberless superstitions, which in former ages darkened the understandings of men and degraded them almost to a level with the beasts that perish, have vanished before the light of modern civilization.

The progress that has been made in developing the moral sense of mankind is demonstrated by the changed social position of woman. Formerly she was a mere slave, doomed to a life of ignorance and servile drudgery; now she is educated, is the equal of man, and clothed with all the rights, responsibilities, and duties that naturally appertain to her in organized society. The emancipation and elevation of the negro from his degraded condition furnishes another instance that shows the moral progress that the world has made. A little more than two hundred years ago it was not considered "that the negro had any rights that a white man was bound to respect;" now he is a man, a brother, on equality with the white man. The many salutary reforms that have been inaugurated and are constantly being inaugurated for the salvation of wayward humanity from the horrors of intemperance and vice in all its forms, prove that man-

kind have been and are steadily acquiring clearer and stronger apprehension of their moral obligations.

As a religious being man has progressed far beyond what he was in the childhood of the race. The contrast between religious thought and worship as they are today and as they were in the early ages of the world, presents in a strong light the grand advance that man has made. The crude religious ideas that characterized primitive humanity grew into better form as time went on, and developed from phase to phase, so that when the gospel of Jesus Christ arrived the whole world was illuminated. The forward and upward movement of mankind to a more elevated and better plane has been accelerated by a more intelligent and consistent perception of the Deity in a far greater degree than by all other causes combined.

Many bootless discussions have been held among the learned and the unlearned upon the question whether man or woman exercises the greater sway over human affairs. This question has been a live question in village debating societies and in institutions of higher pretensions. There can be no answer to it. As well ask, which force does the more essential service in carrying the planets around the sun, the centripetal or the centrifugal? Or ask, which of two pillars, each equally necessary with the other for the support of a structure resting on them only, contributes more than the other to upholding the structure?

In the beginning God ordained the relations between man and woman. He made each dependent on the other, and one the complement of the other. He made each a part of one whole. Together they constitute the human race. All human experience demonstrates how vain it is to kick against the ordinances of God's providence. Together man and woman came into the world; together they live in it and do their appointed work, and together they must make their final exit on the day when humanity shall cease to exist. Man and woman have been endowed with different faculties and powers, corresponding to the different parts assigned them in the plan of creation. The two sexes, when both are normally developed, exhibit characters differing in all respects. Physically man is the stronger, but woman has the more delicate touch. She is so organized that

she will thrill with emotion on occasions when his coarser and less susceptible nerves are unaffected. The intellectual and moral powers of the two sexes, which they have in common, are distributed between them in such proportions that as it respects those powers their characters differ. Woman upon a given subject intuitively reaches a conclusion entirely satisfactory to herself with great promptness, while man upon the same subject will take time to consider, and will be quite likely to be in great doubt when his final decision is rendered.

The sublime truths of religion impress themselves upon both the feminine and the masculine mind, but the impressions thus made are manifested by the two sexes differently. The religious emotions of the devout woman seem to control her whole being and she gives herself away to them with apparent gladness. On the other hand, man, however devout and sincere he may be, seldom loses his self-control by reason of religious excitement, but while fully realizing his duties and obligations to the Supreme Being, and firmly resolved to fulfill them, ordinarily he will remain calm and composed.

It thus appears that man and woman are indissolubly linked together for weal or woe, whichever it may be; with different powers, but each fulfilling what is lacking in the other, and that with equal responsibility they have resting upon them jointly the duty of maintaining and improving the human race. It follows that the thorough development of the peculiar powers and gifts of both sexes with equal care is the way that leads to the highest possible elevation of humanity, while any system of training that elevates one sex and degrades the other destroys the natural equilibrium between their respective powers and influence, and inevitably must push mankind on a downward career. Adam and Eve were created and placed together in the garden of Eden. Together they sinned, and together they suffered the punishment of their transgression. Our first parents, participating with each other in all the joys and sorrows, the rewards and punishments that fell to their lot, lived, did their work, and died. In like manner in each of the successive generations of their posterity down to the present time, man and woman sharing together the woes and blessings of human life, have lived, wrought, and passed away.

In every age and every country, man and woman have never failed to be jointly imbued with the temper, spirit, and sentiment of the times. When crime is rampant and every breeze is loaded with sin, the assassin's dagger may gleam, or the cup of poison be held with murderous intent in the hands of one sex as well as the other; but when virtue rules the hour, heroes and heroines spring up on all sides and are ready to do and to dare in behalf of the right.

At such an hour, if the call of God or of country is heard, man and woman both will be found obeying that call and bidding defiance to dungeons and gibbets, the cannon's mouth, and the martyr's block. It has been asserted that in primitive times man was a barbarian, and woman was enslaved and made the mere drudge of her imperious master, and that as society progressed, the condition of woman improved until finally civilization placed the sexes upon equality. This statement does not present the situation fairly as it has been in the world. When man was a barbarian and a brute, woman also was a barbarian and a brute. When improvement and civilization came, it was the improvement and civilization of the race of man and of woman, each progressing with equal steps. Each sex was created the counterpart of the other, has remained the counterpart of the other through all the changes that time has wrought. Man and woman, when barbarians and brutes, admired and appreciated each other the same as civilized man and woman admire and appreciate each other. The bonds by which nature has linked the sexes together are equally strong at every stage of human progress. At the very beginning of humanity in the garden of Eden, it appears that man and woman were equally potential, and both concurred in those acts that brought upon themselves and their posterity a common punishment. Times have changed and will continue to change, but the influence and control that nature has given each sex over the other has not changed and never will. The two sexes exemplify, each in an equal degree, the virtues that adorn and the vices that degrade humanity.

It is seldom, if ever, that a great crime is committed or a great work of beneficence accomplished by either sex without the aid and concurrence of the other. The fixed character of the

power that the sexes exercise over each other is illustrated by the history of the world in every age. Woman as well as man at all stages of human progress, from the most abject barbarism to the highest civilization, has pushed herself or been pushed to the front, and has been made the governing power. Her part in such work has been characterized by management as adroit, by cruelties as flagrant, and by a will as unyielding as man ever manifested in the accomplishment of his purposes. She has exhibited virtue in its loftiest elevation and vice in its worst form. She did it in the early ages as well as in more modern times.

In the most ancient history, outside of the Sacred Scriptures, it is recorded that Semiramis, the queen of Ninus, king of Assyria, having by the joint use of stratagem and force deposed and put to death her husband, assumed the reins of government over his realm, subjugated the surrounding nations, successfully invaded India, founded the great city of Babylon, erected many famous monuments, and constructed magnificent roads, bridges, and canals all over her vast empire.

The soldiers of ancient Sparta were indomitable in war, because their wives and mothers shared equally with them in self-sacrifice and devotion to the glory and honor of the commonwealth.

The ancient Britons, in resisting Roman invasion, were ably led by their queen Boadicea, and after fighting long and bravely were overcome at last, not by superior valor but by the discipline and scientific warfare of the veteran legions of Rome.

Tacitus in his history, descriptive of the manners and customs of the German tribes in the days of their barbarism, says it was their custom on important occasions involving the general welfare to summon the women to take part in consultation, and to vote on the measures proposed for adoption. In modern times women have been potential in good works and in bad works. When Spain undertook to crush the liberties of Holland by a cruel and desolating war of subjugation, the Dutch women took the places of their fallen husbands, fathers, and brothers in the trenches and on the ramparts of their towns and cities, and did valiant service in repelling the foe.

In France, Catherine de Medici with the malice of a fiend plotted, urged on, and consummated the horrible massacre of St.

Bartholomew. The career of Catherine II of Russia demonstates that a female sovereign can rule successfully a vast and turbulent empire, and through a long reign with a steady hand maintain good order. It also demonstrates that woman as well as man, when high in authority, may fall into depravity, immorality, and gross sensuality.

In very recent times, we have the example of Queen Victoria, an example creditable not only to woman but to humanity. During a long reign not yet ended, over one of the most powerful and enlightened nations of the earth, she has been in her station a pattern of domestic virtue for all the world. With good sense and admirable self-control, she has kept herself uniformly within the limits of her duties, and within those limits has done her proper work with sound judgment, firmness, and fidelity. If the history of all the royal potentates of both sexes that the world has seen was studied carefully, it is doubtful about finding another one who, considered in all respects, has done as well as Queen Victoria. It is certain that woman as well as man has got the capacity to govern. Her government like his may be strong or weak, just or unjust, virtuous or depraved, righteous or wicked; but the respective excellencies and infirmities of masculine and feminine government will correspond to the respective peculiarities of the masculine and feminine character.

The position of woman, in reference to her children, gives her a momentous power over the destiny of the human race. If her influence over her children be a good influence, it will be a mighty force to uplift and improve humanity; but if it be a bad influence, it will be equally potential for the degradation of humanity. It is pretty safe to assert the proposition that there never was a good man who did not have a good mother, or a bad man who did not have either a bad or a weak mother. This country is greatly indebted to Mary, the mother of Washington, for bearing and rearing such a son as George Washington. Honors too great cannot be paid to her. The monument recently erected to her memory is not only a thing done in good taste, but is a just tribute tardily paid to her great merit.

Nero, a Roman emperor whose vile and cruel rule made his name a synonym for outrageous tyranny and wickedness, had a

bad mother. She was bad in the superlative degree, and as a consequence her son, whom she reared and trained, was when given imperial power the worst of tyrants. A fearful retribution, however, overtook her for transmitting to her son and developing in him her own vicious qualities. When by the means of his mother's crimes and wicked intrigues Nero was made emperor, he put her to an ignominious death, not as a punishment for her criminal conduct, but from mere caprice and in gratification of his innate propensity towards evil.

In ancient times and in modern times, woman has been always potential, and it is certain that whatever of good or evil there is in this world, or ever was, or ever will be, she has been, is, and always will be entitled to be credited as contributing her full share. The two sexes have the threads of their respective destinies so interwoven by the everlasting fiat of nature that one cannot rise or fall without a corresponding elevation or depression of the other. Whatever improves one sex to the same extent improves the other sex, and to the same extent promotes human progress.

In the light of the fixed and unchangeable relations that nature has ordained between the sexes, we can argue with some satisfaction in regard to the consequences which will follow the new movement in behalf of woman.

This movement is going on all over the civilized world. It is here. It is in Great Britain, France, and Germany. Even Turkey, weighed down by the fanaticism of non-progressive Islam and still darkened by the shadows of barbarism, is affected by the movement, and has begun to establish schools for female education. This movement, which thus seems to be taking on a world-wide character, is a fact, and according to our contention it means that the human race is about to take a long step in advance. So far as this apparent general movement in favor of better training, a higher education, and a broader field of employment for women is concerned, it is not promoted but rather retarded and exposed to ridicule by reason of the farcical performances of those women who unsex themselves, put on masculine attire, scream about the tyrant man, and put themselves forward as candidates for office. This class of women are really of no

account, mere fire-flies, eccentricities, dancing on the foreground, who, accomplishing nothing, when their brief hour is spent will pass away and be forgotten. The friends of humanity are anxious that the present onward march of human improvement should continue at an accelerated pace with no step backward.

It is apparent from what we have already shown that the character of a people is identical with the character of their women, and that any people can improve themselves by improving their women. There is no surer test of the character of a nation, and no better indicator of its future, than what is afforded by a careful study of its women. The nation that can show its women to be virtuous and industrious furnishes conclusive evidence that its men are brave and strong, invincible in war, enterprising and progressive in peace, and that its future is bright and promising. On the other hand, proof that the women of a nation are depraved and idle is also proof that its men are cowardly and weak, and that its final dissolution is not far off. The new education for woman contemplates her improvement physically, intellectually, morally, and religiously. Her physical training will give her health and strength, and at the same time she will get knowledge of the sanitary laws that secure health and strength. Her constitution thus strengthened and invigorated and made secure by her knowledge of the way to preserve it, will enable her to do effectually all the work which nature has ordained that she should do. She will be endowed with strength to bear children that are healthy and strong, and to perform with cheerfulness and pleasure all the multitudinous duties which devolve upon a mother. Her knowledge of sanitary laws will enable her to rear her children and keep them strong and healthy, and also so to train them that they will form wholesome habits and learn how to take care of themselves.

The end sought to be accomplished for woman by her higher education, is the complete and harmonious development of all her powers. It is expected that when her education is finished, she will still be a woman. The ideal sought to be realized is not a perfect man, but a perfect woman, or at least a woman as near perfection "as the lot of humanity will admit." The physical training that gives to the female student health, will enable her

at the same time to receive with pleasure and profit, intellectual, moral, and religious training, and thus all her powers contemporaneously will be developed and disciplined. No argument is necessary to satisfy an intelligent mind that a generation born of mothers thus educated will progress by leaps and bounds, in light and knowledge, in wisdom and goodness.

It will be an epoch in the history of the world when this higher education for woman is fully inaugurated and permanently established. It will mark the point of time when retrograding and zigzagging in human progress ceased. From and after that epoch, the march of human progress will be onward without halting into the unexplored and unlimited regions of knowledge that lie within reach of human power, steadily and wisely exercised. A halo of light will encircle those generations whose sons and daughters are born of these highly educated mothers. The women of those generations will be wise, beautiful, and lovely beyond conception, and the men will stand up, as man was created in the image of his maker, strong, valiant, and God-like.

Children that are vigorous at birth, that are nurtured in the arms of healthy, intellectual, moral, and religious mothers, and watched over by those mothers in childhood and youth, will be sure to grow up with sound minds in sound bodies, and with the moral and religious sense that will cause them to shun evil and seek the right, to fear the Lord and keep his commandments.

It has been suggested that it is dangerous for woman to know too much; that if she be thoroughly educated she will be discontented with her lot and spend her strength in useless kicks against the part assigned her in the plan of creation. There are no grounds for this suggestion. It rests on a false assumption. Accurate knowledge and a thorough general education do not tend to create discontent with the decrees of Providence, and with what is seen and known to be inevitable. When a woman sees and knows the duty assigned her by the ordinances of God and has been taught submission to the Divine will, she then certainly will perform her part with great pleasure and alacrity. Knowledge and a harmonious development of the human faculties cannot harm either man or woman. It is ignorance which,

combining with an overweening conceit and assuming knowledge, does the mischief, and is the "dangerous thing."

A summary of the present situation, so far as it appears from what we have already said, would be that the movement in behalf of female education is fully inaugurated; that woman shall enjoy on equality with men unlimited educational facilities; that she is entitled to receive all the training and discipline necessary for the development of all her powers; that as a consequence of this movement so inaugurated we have the right to expect that the men and women of future generations, who shall have for their mothers the students now thronging the institutions of learning established for the higher education of women, will excel this and all former generations of mankind, in physical and intellectual strength, in moral uprightness and genuine piety, and that we expect this result because a child born and reared by a mother who has physical and intellectual strength, moral uprightness, and genuine piety, in all probability on arriving at manhood or womanhood will be fully prepared to run a career in all respects distinguished for ability and good conduct.

Other results that will follow the higher education for woman, besides what she will be enabled to do as a mother, have not as yet had special allusion made to them. The influence of woman as a mother is great and far reaching, but it does not stop there. It extends to everything that concerns humanity. The woman who receives the higher education is qualified thereby to do good and to act wisely in the discharge of all her duties to husband, family, and society, and to everybody and everything within the boundaries of female influence.

There is a question not yet settled about which opinions differ in regard to the system that ought to be observed in educating the two sexes. Some educators contend that there should be co-education, and that there should be a joint course of discipline and study given to both sexes in the same class; while other educators hold that there ought to be a separation, and that the two sexes should be educated apart, with a course of study and discipline adapted to the peculiarities of each sex. So far as this question is concerned, there should not be any heated controversy about it. Both systems are now actually being tried,

and all are agreed that the system shown by experience to be the more successful should be adopted. Therefore, there is little doubt but that the question will settle itself.

In matters other than education the new movement has not arrived as yet at any definite limits. The learned professions here and there have been thrown partially open to women, but the movement in this respect though perhaps progressing has not proceeded very far. Employment in a great many different kinds of labor in which women formerly were not engaged is now thrown open to them, and it probably may be said with truth, that in this respect the movement is progressing. Nothing definite can be said as to the ultimate limitations of this movement beyond this, that it will stop when the sensible men and the sensible women are satisfied that it cannot go farther without endangering the welfare of the race. There are some things that without doubt will always remain for the men to do, while other things are left exclusively in the hands of the women. Women will never be called upon to carry the musket or to dig ditches; certainly not except in extraordinary exigencies. The household, the home, the family, are the proper dominion of the wife and mother. There she should be supreme. War, invention, discovery, the subjugation of the wilderness and fitting it for civilization are the business of the men. In a vast number of employments it is not likely that a definite line of demarcation will ever be drawn between what shall be done by one sex and what by the other. No doubt some occupations always will remain open to both sexes alike. No superiority of one sex over the other is implied because in some matters the services of one are preferred to the services of the other. The sex enabled by its peculiar powers to perform a given work better than the other sex can, is preferred and ought to be preferred.

There are questions more or less discussed at the present time about the ballot; whether or not that should be given to woman, and whether or not her participation in such business would be congenial to herself and tend to promote human progress. The class of women (to whom allusion has been made already as of no account) prancing along on the divisional line that society has fixed between the sexes as to manners and costume, putting

on mannish airs, garments, and headgear, and exhibiting only faint traces of what would indicate the sex to which they belong, are extremely urgent and vociferous in their demands for the ballot. Although it must be admitted that there are some women and perhaps some men of character endowed with large intellectual powers, who sincerely believe that the whole domain of politics and government ought to be thrown open to women the same as it is to men, that women ought to have universal suffrage and be eligible to all the offices in all departments of the government, and to all positions in every branch of business; yet much the larger part of the sober-minded, sensible women do not regard it as their duty to seek such an extended opening for female action. On the contrary, they denounce the idea and say that it calls upon them to do what does not belong to them to do according to the natural and proper division of work between the sexes, and that they might just as well be called upon to carry the musket or dig ditches.

The propriety and rightfulness of thrusting upon women all the turmoil, uproar, and unseemly strife that the carrying out of such an idea would involve, is certainly very doubtful. It would not enable her to use her natural and legitimate influence to any better advantage. On the contrary, it would place her in an unnatural position and where she would not feel at home, and thus she would be compelled to exercise her wholesome and necessary influence at a disadvantage. Her influence to be effective and useful must operate through the natural channels of female influence and in accordance with the laws of her being. The suggestion that we ought to wait until the human race is further advanced in light and civilization before we thrust upon woman the responsibility of the ballot fully extended, and of running the government in all its branches, is certainly reasonable. The intimate association of woman with children and youth, the deep interest she feels in their welfare, and her special responsibility for them, have caused everybody to agree that she ought to have a potential voice in their training and education. In accordance with this general popular assent, a movement was inaugurated sometime ago by which women have been made competent voters in school meetings, and eligible to the offices which have the management and control of the schools.

Certain Rocky Mountain states and other western states have imposed upon their women the responsibility of the ballot, and of taking an equal part with the men in administering the government in all its branches. This movement must be regarded as simply tentative and experimental. We shall do well if we watch it long enough to be satisfied as to its character. We shall then be able to draw inferences that may aid us in determining what we ought to do. It will no doubt be a good disposition of this question if we leave it to be determined by the next generation. We have shown already what that generation is expected to be. We have shown that in it and a part of it will be the sons and daughters of mothers who are now girls receiving training and discipline in our numerous institutions for the higher education of women. We have a right to expect for this reason that the next generation will have the capacity to judge in regard to this and all other questions more wisely than we of this generation can. Also facts bearing on the question now unknown will then have come to light. The results of the experiments now going on in the Rocky Mountain and other western states will then be known, and the evidence presented to the next generation may remove all doubt and make very plain the way this question ought to be decided. What gives the question importance is the effect that its determination either way may have upon human progress. Whenever it shall come to pass that the level-headed, sober-minded, sensible women substantially concur in the conclusion that woman never will have her normal position in organized society until she has the ballot, and takes equal part with man in governmental affairs, and that the welfare and future progress of the race require her to assume those responsibilities, in the interest of harmony between the sexes which must be preserved, it will then be necessary to inaugurate and try the experiment without delay.

In settling this question and all other questions as to the position each sex ought to occupy in society, let it always be remembered that man and woman are partners in the business of maintaining and improving the human race; that their joint obligation to contribute to the progress of the race will continue until mankind have advanced in knowledge, virtue, and goodness as near to Divinity itself as the lot of humanity will permit.

THE INFLUENCE OF RELIGION UPON HUMAN PROGRESS.

ANNUAL ADDRESS BEFORE THE NEW HAMPSHIRE HISTORICAL SOCIETY, CONCORD, N. H., JUNE 9, 1907.

I define my subject in these words, "The Influence of Religion on Human Progress." Religion in some form always abides with man, inspiring his action and forming his character. Its power over humanity is almost without limit, sometimes inspiring deeds of vast beneficence and at other times instigating crimes of fiendlike wickedness. It instigates crimes when corrupted and inspires beneficent deeds when operating in its legitimate way. Human progress will be arrested by a corrupt and perverted religion and will retrograde unless religious purity be restored. Fanatical bigots, venal priests and scheming politicians, interpolating into religion their dogmas and superstitions, have sought to enforce its acceptance, thus corrupted and perverted, by unrelenting persecution. In this way incalculable suffering and misery have been inflicted on mankind. In order to preserve the purity of religion or restore it when corrupted there must be absolute toleration of religious opinion and discussion.

The nineteenth century has witnessed the commencement of an age that promises to be an age of free discussion, searching inquiry and patient thought. In the light of such an age, false creeds and doctrines will be exposed and errors and superstitions that in the past have enslaved mankind will be discarded. The truth will be established, and it is not unreasonable to expect that the time is coming when a pure religion, adapted to the wants of man, will meet with universal acceptance. The principal religions of the world will demand attention that we may see which is fittest for survival. The earliest records of primitive man present him as a religious being. Impressed with awe at the wonders of the heavens above him and the earth around him, the inner intelligence breathed into man at his creation made

him realize the presence of an unseen hand that controlled all things. He instinctively ascribed the guidance of the alternate changes of nature between light and darkness, heat and cold, sunshine and storm, to an invisible power of infinite might before whom he reverently bowed and worshiped. The religion of the childhood of our race was pure. It was untrammeled by either ritual or dogma. Religion in its purity is such a recognition of the Supreme Being as exercises a controlling influence on the character of man and effectually regulates his moral conduct. But the baser passions of man have perverted the original sublime simplicity of religion into gross superstitions. In the name of religion persecution, violence, outrage, and wrong in every form have been done. This work, however, has not been done by genuine religion. It has been the work of bigotry, superstition and politics. The intolerance of the bigot, seeking to maintain his dogmas by persecution, has afflicted humanity with much bloodshed, suffering, and misery. State-craft has induced kings and temporal rulers, seeking the accomplishment of their political ends, hypocritically to assume that they were acting for the glory of God and the extermination of heresy, while driving whole nations into exile, imprisoning multitudes of the righteous in loathsome dungeons and drenching their lands with the blood of martyrs. True religion, however, never inspires hatred, violence, and persecution. On the contrary, it inspires universal charity and love. It brings gentleness, peace, and the brotherhood of man. It gives to its votaries strength, fortitude, patience, humility, forgiveness, resignation, and thus enables them to triumph over violence, oppression, and martyrdom itself. A religion subjected to the power of the state is soon loaded down with the dogmas of superstition and is religion no longer. It is then something out of which no good can come; something either absolutely dead or positively pernicious. Free discussion, universal tolerance, are the weapons which can vindicate religious truth. In the glare of such weapons false doctrines fade away and disappear like the darkness of night in the dawn of the morning.

In all ages of the world there has been a multitude of religions. Many of these religions are dead and buried with the people

among whom they once prevailed. Truth more or less of it can be found in all these religions and several of them are based on the same great religious truths and have similar rules for regulating the moral conduct. The attributes of the Divine Power that all enlightened religions make the object of worship are perfect and infinite. According to those religions God is eternal, without change, without beginning and without end. His justice, His mercy, His love, endure forever and "He has made of one blood all nations of men to dwell on all the face of the earth." He is the loving Father of all mankind. His hand guides all things and He is the same yesterday, today, and forever.

The uniform character of the divine government and the fatherhood of God thus recognized demonstrate that the beneficent Creator has not given sources of light and knowledge to a portion of His children and denied to the remaining portion all means of enlightenment. The irreverence of even the suggestion that such partiality has been shown by our Father in heaven who is no respector of persons shocks the innate intelligence of man.

The great book of nature has been open always for all to read. At the beginning the conscience, the divine impulse to seek good and shun evil, was given to all men. As the waters quit their fountain heads and, uniting in streams, always are seeking the great ocean, so men quit their individual isolation, and, uniting in systems of religion, always are seeking God. He who has ears to hear and eyes to see and who, under the guidance of the divine impulse within him, subdues all the baser passions and seeks diligently for heavenly light, will be sure to find the way that leads to the knowledge of the truth. The man who has been brought by his pure life and earnest seeking to a knowledge of the truth is a prophet. He is a light to his people. His words awaken their consciences and make them see the truth as he sees it. He points out to them what God has revealed and presents the evidence that shows the revelation to be divine. The advent of the prophet may be in any age, in any country, and where any form of religion prevails. The way that leads to a knowledge of the truth may be found by all who seek it.

The prophet in his meditations realizing the presence of the invisible God, thinking deeply, seeing far and understanding clearly what is revealed to him, declares it with an inspired utterance. It matters not as to the particular mode in which revelation is made. If the revelation be a revelation of the truth it comes from God, the fountain head of all truth.

Religion must have for its basis truth, otherwise it is superstition. Truth is always in harmony with itself. Truth never clashes with truth. The religions of the world differ from each other, but every truth in each one of them is in harmony with all truth. So far as those religions are shown to conflict with the truth, to that extent error is located and demonstrated. When any two of these religions are found to be in conflict, it is demonstrated that there is wrong somewhere; that one or the other or both are in error. Some of these religions are of such recent origin that the names and lives of their founders are matters of history, whilst others are so old that all knowledge of their origin and of everything connected therewith is lost in antiquity. It is certain that the aspiration of all men for knowledge of the Infinite and the universal revelation that God has made of Himself have given a religion to every people; but all men, moved by the same aspiration and recognizing the same revelation, could not be expected to agree exactly as to the meaning of that revelation. Consequently the inevitable has taken place and the early religions, pure in their origin, differed more or less at their very beginning.

As time went on, some of the religions remaining comparatively pure while others were more or less perverted and corrupted, the original differences were broadened. A comparison of those religions, so far as there are any material differences, and free discussion will eliminate error and establish the truth. "The sure way to establish truth is to leave it free to combat error." There are indications, so far as religious truth is concerned, that the world ultimately will assent to this proposition and that sometime in the future we shall see everywhere absolute toleration of all religions. In this respect great progress has been made already in the Christian world. The tortures of the inquisition no longer exist. Religious wars, massacres, and persecu-

tions have ceased to deluge France and Germany in blood and to drive their best citizens into exile. It was some time ago that England bestowed the crown of martyrdom on religious heretics. In those countries today, religious thought is free.

A very good illustration of the progressive movement that has been going on in the world towards universal religious toleration can be found by a reference to the history of our own country. Our Puritan fathers of the seventeenth century, driven by persecution from their native land and seeking a place where they could worship God as their consciences dictated, fled to the wilds of America, and there laid the foundation of a new commonwealth. The government that they ordained was as intolerant in matters of religion as the government from which they fled. They persecuted with unrelenting severity everybody whose religious opinions differed from their own. Every aspiration towards God not breathed precisely as they breathed and every religious thought not colored exactly like their own thoughts were crimes which they punished with banishment, torture, imprisonment, and death. Baptists were exiled, whipped and imprisoned. Holes were burned with red hot irons through the tongues of Quakers. Other religious sects received similar treatment. Respectable, God fearing men and women, who were guilty of no crime, were accused of witchcraft, hurried to the gallows and put to an ignominious death.

Gradually light dawned on our fathers. Slowly they came to the knowledge that the religion they professed was a simple appeal to the hearts and understanding of men; that it was not to be inculcated by the whipping post, the prison and the gallows, nor by persecution of any kind. The fixed and rigid character of New England Puritanism, however, would not permit it to rid itself of its intolerance all at once. It relaxed by degrees and broadened its narrow views with reluctance. Its intolerance still lingered at the time of the adoption of our state constitution and had then strength enough to compel the incorporation of the religious test into that instrument, and there afterwards to maintain it therein down to a very recent period. After a while the spirit of progress did its work, and now the obnoxious test does not disfigure our fundamental law. The

rapid movement of the age towards freedom and the liberal sentiments that now so thoroughly surround us, make it hard for us to realize that only a little while ago a large body of our fellow-citizens, whose patriotism and intelligence have never been wanting, and who always have done their duty on the battle-fields and in the councils of the nation, have been held under our constitution to be ineligible, on account of their religious opinions, to offices of trust and responsibility. We have reason to be thankful that we are emancipated from the intolerance of the past, not merely because we incur no penalties by selecting as conscience dictates our modes of divine worship, but also because religious freedom has brought peace and harmony to religious sects that in the days of intolerance were warring always with one another. The inevitable enmity, jealousy, and hate that arise between religious sects from the fact that some are the persecutors and others are the persecuted, or from the fact that some have privileges above others, disappear when all are put upon equality. In our country each and every religious sect or denomination is protected securely from receiving either aid or opposition from the state. To each and every one of them with the same advantages and disadvantages, one and the same duty is left to be performed. That duty is taught them by the gospel of their Divine Master, whose supreme authority they all acknowledge. They all work in the same field with the same means and for the same end. The gospel of Christ is the common source from which each one of them receives its guidance. They are all beginning to learn that the differences that constitute the distinctions between their several sects are either nominal or have little to do with the gospel of Christ. So far as those differences arise from the dogmas of the scholastics, the corruptions of the dark ages, and the interpolations of state-craft and priest-craft, they are no part of our religion, and they will flee before the light of free discussion as darkness flees before the light of day. The causes which created and maintained divisions among Christians being removed, there would be nothing remaining to prevent the return of brotherhood and mutual sympathy. It is not likely that for no good reason Christian sects will suffer themselves to remain in hostile and

rival divisions, each one constantly marring the work of the other. Such divisions could not stand a moment before the fire of free discussion, so plain is the truth that in union there is strength, but that a house divided against itself cannot stand. The tendency of the Christian world is, and henceforth must be, towards union and concentration of effort to give the light of the gospel to all mankind. In our own country, Christian churches are prepared or are fast reaching that state of preparation which will enable them to concentrate their efforts in the great work of evangelizing the world. Free discussion and absolute freedom of religious opinion has enabled us in this respect to lead other Christian countries. Religious intolerance is, however, diminishing throughout Christendom and everywhere within it there is a tendency more or less marked towards free discussion and religious liberty. In fact, the enmity that has existed between different Christian denominations is waning, and the way is opening for Christians everywhere to combine in an effort to bring all the nations of the earth to a knowledge of the religion of Christ and to make it the universal religion. It is true that much remains to be done before such an effort can be made. Christianity will be the door that opens into the kingdom of heaven and will be fitted to be the universal religion, when, unchained and divorced everywhere from its unholy union with the state and all its alliances with temporal affairs, it shall become purely spiritual in its appeals and in its government. The Divine Master, during his labors with humanity, taught the distinction between the heavenly and earthly kingdoms, and denounced the appropriation to secular uses of what belonged to God. Christ said, "Render unto Cæsar the things which are Cæsar's, and unto God the things that are God's," thereby declaring that the kingdom of heaven and the state were things apart; that both were to be obeyed in their respective spheres, but never to be mingled together. Christ, also, overturned the tables of the money changers in the temple of Jerusalem, and cast out all those that bought and sold, thereby signifying that religion must not be polluted; that holy places must not be contaminated by being made places for traders and speculators to ply their vocations. Christianity, when it takes strong hold of

the hearts of men, giving them peace, light, and knowledge, and leading them to a higher and better life, gives evidence that it is of divine origin and is pure; but when it loosens its hold on the hearts of men and ceases to influence their character and conduct, it is no longer Christianity except in name. In substance it is then nothing but a lifeless carcass. Some poisonous or impure thing has stolen in upon it or been thrust upon it and completely paralyzed it. Whatever the cause of the impurity may be, free discussion will expose it. The truth will triumph, impurity be removed, and the dead body animated with new life. No good can come from subjecting religion to the patronage of the state or from suffering it to pander to the selfish schemes of worldly interest. On the contrary, great harm may be done thereby.

Religion does not need that the state should support it. Our own country affords a practical demonstration that religion, divorced from the state and left dependent upon the voluntary contributions of the people, will receive a generous support. Religion emancipated from state control, with perfect toleration, and free discussion, will stand with nothing in the way to prevent it from becoming again the gospel pure and undefiled, as originally preached by Christ and His apostles. The work done for us by toleration, free discussion, and the separation of church and state can be repeated by the use of the same means in other Christian countries. We may look with confidence for the glorious time that is coming when Christianity everywhere released from thraldom shall be itself, when men will be not tempted to be called Christians except as they are drawn by the Divine Spirit to seek God and His righteousness, and when he who professes Christianity will practice his religion. Christians then cannot be reproached justly as a Christian once was by a Buddhist scholar, who, addressing the Christian, said, "You Christians have the very best religion in the world, and it ought to become the religion of all men; but you do not practice your religion, and for that reason inferior religions are able not only to sustain themselves, but even to get the better of you." This reproach will adhere to Christians, and their efforts to spread the gospel be without power until they themselves have demonstrated

their faith by living lives of self-denial, sincerity, truth, and of obedience to all the precepts of Christianity. When the great body of Christians have demonstrated to the world that they "practice their religion" in sincerity and in truth, they then will be in a good position to obey with successful results the standing order of the Divine Master, issued and recorded more than eighteen hundred years ago in these words, "Go ye into all the world and preach the gospel to every creature."

Most of the great variety of religions that the world has seen are ethnic in their character, and are so interwoven with the pecularities of the people where they originated that their meaning and significance are not understood by strangers. Consequenty those religions make no converts outside of the localities where they were born. Such were the religions of Scandinavia, Ancient Egypt, Chaldea, Greece, and Rome, religions that do not now exist. The ethnic religions, belonging to nations that have passed away, are dead religions. Their theologies, their creeds, and their ethnics are lost in oblivion except so far as fragmentary discoveries are made by the reasearches of anitquarians and scholars.

Of the once numerous followers of Zoroaster only an insignificant remnant is left. The same is true of the Jains. Confucianism and Taoism in China, Brahminism in India, Shintoism in Japan, and Judaism, the religion of ancient Judea, and now the religion of a people scattered over the face of the earth, are the principal ethnic religions that today have living representatives. Buddhism, Mohammedanism, and Christianity are the only religions in existence that proclaim the truths from which they respectively claim to be founded in a form that all the world can understand. Consequently, these three religions are all in such forms that either of them may be made a universal religion. If it be true that God has given to humanity a religion capable of taking to itself truths of all other religions and satisfying the religious longings of all men, then there should be no delay in tendering to all mankind this invaluable gift. The blessings that would flow upon the world from the universal acceptance of this gift are vast and obvious.

There are two points of view from which these blessings may

be seen. One point would be a view of man as an individual, and the other a view of men aggregated and organized into nations. A religion universally accepted, that awakens the divinity in man and causes him to subdue his baser passions, is a gift of infinite value to individual happiness, and to nations a gift insuring to them permanent peace and constant progress in everything that elevates and improves humanity. The suggestion that there may be such a thing as a universal religion naturally raises the question as to the future of the three great existing religions already named as not precluded by their form from becoming universal religions, viz., the Buddhist, the Mohammedan, and the Christian religions. Will they remain as they are today, each maintaining its hold upon a very considerable portion of the world; will one of them prevail over the others and become the universal religion, or will all three, by reason of failure to keep pace with the inevitable changes of the future, be compelled to yield their places to some other religion or religions that a new order of things may require?

In view of the instability of all earthly things it may be assumed that the three great religions will not remain in the world always as they are now, and there are unmistakable indications that a change is near at hand, and that their present relative positions cannot be maintained much longer. The world has shaken off the drowsiness that followed the deep sleep of the dark ages, and now is fairly awake. The opening up of all nations to intimate intercourse and to an accurate knowledge of one another has brought these religions in close proximity, and there is opportunity for careful comparison. They can be fairly weighed and considered, and the truth found in each one of them everybody can accept, and is in duty bound to accept. Where one religion conflicts with the other, one or the other or both must be wrong. Free discussion will expose the error and make the truth apparent. When man plainly sees what is true and what is false he will not hesitate to accept the truth and reject the falsehood.

In the dim light of the primeval age man could have had only a very crude conception of his mission on earth, of his relation to the invisible God, and of life beyond the grave. During all

the ages that since have passed away, the light of revelation has been shining, and men have been gathering knowledge of the truth. The knowledge thus acquired shows that a religion to be accepted by all men must contain the truth and a fulness of truth so that all hearts may be reached. The three great religions as to their following stand relatively in this way: Buddhism has the largest following, Christianity the next largest, and Islam the smallest. The followers of these three religions aggregated constitute a very large majority of the entire population of the earth. The people who are not followers of some of these three religions are followers of the local or ethnic religions such as Confucianism and Taoism in China, Shintoism in Japan, and Brahminism in India.

We will glance briefly at the origin and characteristics of the three principal religions. First, Buddhism, now estimated to be the religion of five hundred millions of human beings, had its origin in India more than five hundred years before the Christian era. Its founder was a prince, the son of the king, who ruled a territory of limited extent in India lying north of the holy city, Benares. This prince, known by several names, Sakya Muni, Gautama, Siddartha, and the Buddha, was distinguished in youth for his clear intellect, his piety and upright conduct. Acquiring all the accomplishments that belonged to his position as the heir of royalty, he grew to manhood. Happily married to a worthy princess for whom he had a tender attachment, standing high in the confidence, love, and esteem of his royal father, his attention was taken from his personal enjoyments by observing the instability of all earthly things, and the evils that were constantly bringing sorrow and suffering upon his fellow men. The conviction came to him that beyond all this there must be truth and a law which never changed, and that the knowledge of that law would enable him to rescue mankind from their misery. He resolved that he would acquire that knowledge and become the deliverer of humanity. In obedience to that resolution, he left wife, father and friends, and became a mendicant, subjecting himself to all the austerities of such a life. He sought everywhere for the light that would show him the knowledge that would enable him to be the deliverer of man

from his woes. He applied to the learned teachers of Brahminism but he got no satisfaction from them, and he came to the conclusion that light was not to be found in that direction. He quit his ascetic diet, but continued his hermit life and spent years in patient study and deep meditation. He passed through the trying experience that has preceded the mission of all the great prophets of mankind. At length after six years of steady, persevering search, enlightenment came. Sitting in profound meditation for a week under a bo tree, not changing his position for a whole day and night, the knowledge for which he was seeking came to him with a conviction of its truth not to be shaken.

The place where Gautama had his vision that revealed to him the knowledge whereby mankind were to be saved, always has been regarded by Buddhists as a sacred place. Having received enlightenment, Gautama at once proclaimed to the world the revelation he had received. Great numbers were converted, and among the converts were the father, wife, and son. He continued to teach until his death at the age of eighty years, living a life in strict conformity to his teachings and of a most exemplary character. He taught that Nirvana, a state of blissful rest, might be reached by the subjugation of self, of all passions and desires, and by the uniform practice of charity; that Nirvana when reached, was rest, deliverance from the woes and miseries of this life. As to God and life beyond the grave, he taught that everything was unknown and unknowable. He gave precepts that carefully pointed out the way to reach Nirvana. His teachings were not committed to writing by him, but after his death they were written out with great care by his disciples and recorded in the sacred book of Buddhism.

Large volumes containing commentaries of learned Buddhists upon the teachings of the Buddha have been written that certainly rival, if they do not surpass, in number and magnitude the numerous and ponderous tomes that Christianity has filled with commentaries upon the teachings of Christ. General councils were held for the purpose of correcting abuses and preserving in purity the religion taught by the Buddha. Three hundred years before the Christian era and in the reign of Asoka, the great Buddhist emperor of India, the third general council was

holden. At that council arrangements were made for missionary work on a broad scale. Missionaries were sent to Ceylon, Java, Burmah, Siam, China, Japan, Nepaul, Thibet, Western Asia, and throughout the world as it was then known in India. This work was continued by the Buddhists of India for centuries, and all over that country are still standing ancient topes and monuments commemorating what was done by those missionaries. Not far from the close of the eighth century Buddhism was expelled from India. It left behind, however, some evidence of its humanizing spirit in the softened character of the religions that remained, and it so far maintained and strengthened its hold on the people outside of India, that it has ever since and now has a larger following than that of any other religion. To class such a religion as this with the fetichisms and superstitions that brutalize man would be unjust and a great mistake. Its earnest and zealous missionaries went abroad and converted vast multitudes and established wherever they went monasteries and schools that have been and are now the sources of public instruction. Its teachers have developed a depth of thought and a strength of conviction that must have had inspiration from at least a partial sight of the truth.

There are many points of resemblance between the history and character of Buddhism and that of Christianity, as well as material points of difference. Their history and character resemble each other in these respects: First, both religions have been driven from the countries of their origin. Christianity had its birth in Judea, and was driven therefrom. Buddhism originated and flourished for a long time in India, but was exiled many centuries ago from its native land. Secondly, both religions have made vast strides outside of the countries of their origin, and both have myriads of followers in many different countries. Thirdly, they are the only religions that have sent missionaries abroad and attempted to teach their religion to all nations, discarding force, and relying in their appeals solely upon the truth and the convictions thereby created. Fourthly, they both enjoin self-denial, love of fellow-man, charity, fidelity, truthfulness, and all the moral virtues, and both have wholesome precepts pointing out how to live a correct life.

There is, however, a wide difference between the two religions, of immeasurable significance. The God of the Christian is ever present with humanity. His love is infinite; His mercy endureth forever; He is ready to receive all who seek Him, and give them on earth the joys of heaven as a foretaste of what is to come when this "mortal shall put on immortality and this corruptible shall put on incorruption." Through faith the Christian is given a realizing sense of the Divine Presence and of his own immortality. The Buddhist by his self-denial, his charity, and his uniformly correct conduct only aims to be delivered from the miseries of this life and to reach Nirvana. Beyond that his religion gives no light. To the Buddhist, the existence of God and the immortality of the soul are unknown and unknowable, are nothing. The gospel of Christ would supply to the Buddhist something of infinite importance that in his religion is wanting. It would give him the Christian's God and the Christian's faith in a blessed immortality. Christianity, accepting into itself all the truth there is in Buddhism and thus fulfilling that religion, would be doing the work of Christ, who declared that he came to fulfil and not to destroy. The Buddhist embracing Christianity would find himself confirmed as to every truth in his old religion, while in spiritual life and light he would be elevated high above his former standing.

The followers of Mohammed present to the Christian missionary an aspect more forbidding than that of the gentle Buddhist. The bigoted, fanatical, and pitiless spirit that always characterized Islam is in marked contrast to the unfailing charity and pity for humanity exhibited by the disciples of the Buddha. Mohammed and his successors spread his religion far and wide by the terrors of the sword. They gave to the people they conquered the choice between death and the Koran. Converts made in this way were no genuine converts. They were merely slaves going through prescribed forms and ceremonies without heart and without relief. The Mohammedan religion was soon spread over nearly all the countries where it prevails today and over some countries where now it does not exist. In a few of the early centuries of Moslem power, and during the

dark ages, institutions of learning of an elevated character existed and flourished at Cordova in Moorish Spain, at Bagdad, the seat of the Moslem caliphate, and at Samarcand, the ancient Maricanda. Until the light of the Renaissance dawned on Christendom these seats of learning within the territories of Islam were the only places in the world where the arts and sciences were highly cultivated, and the literature and philosophy of Greece and Rome carefully studied and preserved.

It has been a debated question whether or not the religion of Islam was in any way instrumental in creating and upholding these famous institutions. It seems that the men who did the work and who were the teachers and directors and furnished the funds for upholding these schools were Jews, and that the Moslem rulers did nothing towards their support except to tolerate them. Islamism of itself is not a promoter of learning and the cultivation of the arts. One of the immediate successors of Mohammed, the Caliph Omar, invading and conquering Egypt, deliberately burned the great library of Alexandria, saying that the Koran contained everything necessary for man to know, that it was immaterial whether the library contained only what was in the Koran or something more; in either event it was not needed, and should be burned as a useless incumbrance. The fact that the great institutions of learning at Cordova, at Bagdad, and Samarcand are not now in existence and that no corresponding institutions in the territories of Islam have taken their place, is evidence tending to show that those institutions when prosperous were not made so by the influence of the Mohammedan religion.

The decay of civilization in Mohammedan countries since the days of the Prophet shows that progress is not aided by the religion of Islam. The present sultan of Turkey, who has received deservedly the name of butcher, now holds the place once held by the Prophet. He holds the Caliphate. In the Moslem world he is the head of what are styled the true believers. No good and much evil is to be anticipated from a religion which has for its exponent the present sultan of Turkey. The jealousies of the great Christian European powers among themselves have upheld and now uphold the tottering throne of the sultan,

and are enabling greedy, fanatical, and cruel Mussulmans to plunder, starve, and butcher unoffending Christians without limit and without distinction of age or sex. No doubt this miserable business will come to an end sometime. The wrath of God and the awakened consciences of all honest men must soon burst the webs that cold blooded, unpitying diplomacy has woven, rescue innocence, and avenge its wrongs. The unspeakable Turk must be driven from the seats which in the first place he usurped and since has held as a robber and a murderer.

The followers of Mohammed have degenerated sadly from what they were in former days. Abuses, superstition, and corruption have crept in apace, and the very fountain head of their religion is polluted. He who should guide them aright is perverse and desperately wicked. No Luther nor Calvin nor John Knox nor other reformer of any kind arises to rescue the religion of Mohammed from the superstition and corruption in which it is buried. It is believed that the time has come when another religion, assimilating to itself all the truth there is in the religion of Islam, should take its place.

Mohammed, the founder of the Moslem religion, was born in Mecca, in Arabia, A. D. 569; lost his parents at an early age, but was tenderly cared for by relatives during his youth. He reached manhood without acquiring vicious habits or bringing any stain on his character. He married a wealthy widow considerably older than himself, with whom he lived in affectionate harmony until her death. He was a trader, and conducting his business with ability and fidelity, he acquired a wide reputation as a reliable merchant. Always thoughtful and serious, he acquired the habit of retiring into solitude for prayer and meditation. In these solitary vigils he began after a time to have visions of angels, to hear voices, and to see light. Revelations were made to him which he, assuming to be the prophet of God, proclaimed to the world, and made the basis of his religion. His wife, who all along had sympathized with him in his religious experiences, was his first convert.

During the first ten years after entering upon his mission he made only few converts and these were for the most part members of his family or were his relatives or immediate friends.

All Arabia at that time had surrendered itself to the worship of idols and the grossest superstition. His religion declared that there was but one God and enjoined an entire submission to his will. Mohammed vehemently denounced the idolatrous worship and the superstitious practices that were going on all around him, and as a consequence he was assailed by a most bitter persecution. At length the spirit of persecution waxed so hot against him that he, with his few followers, was obliged to flee from Mecca to Medina. This flight took place A. D. 622, is called the Hegira, and is the event from which the Mohammedans reckon time.

At Medina, Mohammed largely increased his following and was able to take the field and rout his foes in the Battle of Bader, fought January, A. D. 624. He then organized a powerful army of his followers, and led them with such skill that he overthrew all opposition in Arabia, conquering and taking possession of Mecca, A. D. 630. All the Arabian tribes submitted to his authority and accepted his religion. Having founded a religion, created an empire, and compelled the acceptance of his religion throughout his empire, and having perfected the organization of an army of veteran soldiers animated with fanatical zeal, he died A. D. 632, and left to his successors the work of extending the empire, and spreading his religion.

The caliphs who succeeded him with the army he trained soon spread the empire and his religion over Syria, Persia, Palestine, Spain, and Northern Africa. The earnestness of Mohammed and the intense conviction that always inspired him shows that in his mind there was no doubt that he was the prophet of God, that his visions and revelations came from God, and that the unerring combinations in war of his clear intellect and his deep insight into men were divinely inspired. The consciousness, ever present with him, that God reposed in him special trust gave to him a dignity which impressed his followers with reverential awe and they listened to his words as oracles coming through him from God.

If it be conceded that these visions and revelations of Mohammed were delusions it also must be conceded that the worst deluded person of all was Mohammed himself. Through all his

life up to the time when he succeeded in establishing by the sword his power and his religion, and until within a few years of his death, he was a marked man by reason of his uniformly correct deportment and his practice of all the moral virtues, and during the long period that he was abused, reviled, and persecuted on account of his religion, he bore it all with infinite patience and equanimity. It was after his character as a prophet and his temporal power were fully established that he seems to have become unbalanced and contradicted his former life of self-denial and kindness for his fellow men by taking a multiplicity of wives and filling his harem with young and beautiful women and by treating the conquered with undue severity and cruelty. The religion that Mohammed taught is sublime in its monotheism. It declares that there is no god but God. It inculcates, however, a blind submission to God so absolute as to be a practical recognition of the doctrine of fatalism. The God of Islam is a god of will, cold and distant. He is the imperious master and man his abject slave. The God of Christianity is a loving Father ever present with his children and by his incarnation actually demonstrating to the earthly senses his nearness and his love.

The ethnic religions for the most part have their sacred books and some of them have had profound teachers that the world recognizes as great men. Confucianism embodies the teachings of Confucius who lived and labored in China five centuries before the Christian era. His writings contain much truth, so stated as to enforce conviction, and they stand today and have stood for twenty-four centuries, in the eyes of many millions of people, as the embodiment of wisdom. Through all the ages since his death there have been multitudes who thought of Confucius what these words express:

> "Confucius, Confucius! how great was Confucius!
> Before him there was no Confucius.
> Since him there has been no Confucius.
> Confucius, Confucius! how great was Confucius!"

The religion of India, Brahminism, has an antiquity so remote that there is no record of its origin. It rests on caste with social distinctions that are fixed and unchangeable. It has withstood invasion and conquest and is today as it was in the earliest

period of recorded history. It is the religion of India only, so fastened there as to be incapable of becoming the religion of another country. It has sacred books and an accompanying literature that reach back into pre-historic times. Notwithstanding the great age of Brahminism and the continuous intellectual labors of its teachers in abstract reasoning and philosophic speculation, it has not aided progress. India remains today, so far as it has been affected by Brahminism, as it was when invaded more than three hundred years before Christ by Alexander the Great. Christianity, receiving into itself what is true in Brahminism and thus becoming the religion of India, would awaken the Hindoo mind from its sleep of ages, elevate it, and place it in line with the intellectual forces that lead in the progress of mankind.

Judaism is the religion of the remnant of Jews that rejected Christ and by rejecting him left their religion a narrow ethnic religion, incapable of making converts from the people of other nations. Judaism is for the Jews only. One not born a Jew must be adopted as a Jew before he can become a convert to the religion of the Jews. Judaism by rejecting Christ lost all the interest it might have had in the conversion of the Gentile world. Few in number, scattered all over the world and exclusive in their religion, it is not likely that the Jews will aid or retard materially the world's progress.

I assume without further discussion that the pure and simple gospel of Jesus Christ constitutes a religion of catholicity, capable of taking to itself the truths of all other religions and of becoming the universal religion. The attack made on Christianity by showing that the Mosaic account of the creation is discredited by science falls harmless. The Christian Bible does not teach nor does it purport to teach the science of geology, biology, or evolution. It is a book containing religious truth and explaining the relations between God, man, and the universe, and as such is the Christian's guide. Christianity is itself truth, and always harmonizes with truth, and can never conflict with scientific truth. On the contrary it receives to itself all truths when established. In that sense it is progressive and thus it maintains and is entitled to maintain its leadership of mankind.

Man must have a religion that in his eyes is truth, and if he discovers additional truth reconcilable therewith, his stock of knowledge is increased, but faith in his religion is not thereby shaken. History shows that Christianity, when abuses have crept in upon it, has power to purify itself, while other religions have not that power. In the gloom of the dark ages the Christian church became so loaded down with corruption, superstition, and unwholesome dogmas that both religion and civilization were threatened with a common burial.

In defiance of the contaminating influences that were pushing Christianity on this downward career, a protest went up from the bosom of the church itself, which shook Christendom from centre to circumference. Luther and Calvin and their devout and fearless associates lifted their voices in denunciation long and loud of the abuses, the uncleanness, and the false doctrines that polluted the church. The reformation began and was continued. After many years of painful struggling among warring Christians a steady movement was inaugurated towards the recovery of the pristine purity of Christianity. That movement has accomplished much and is still progressing.

The good work of the reformation has not been confined to those who protested. The mother church, the church of Rome, itself was awakened and strove vigorously to shake off the torpor, paralysis, and venality brought upon her by bad men and evil times. She has sent out her earnest, devoted, and untiring disciples everywhere and sought to spread Christianity with the zeal of apostolic days. There has been intolerance and persecution bitter and unrelenting, but it has not been confined entirely to the church of Rome. The shadow of that wickedness rests on the history of both Catholicism and Protestantism. This intolerant spirit does not now exist in nations that have reached an advanced stage of civilization, and is weakening everywhere before the progressive movement of the world. So far as our own country is concerned, the church of Rome can claim justly that it has done its part towards the establishment of religious freedom. In the early days and while our Puritan fathers were persecuting the Quakers and hanging the witches, Lord Baltimore, a Catholic nobleman, planted the Catholic colony of Mary-

land and proclaimed to all who might come freedom of religious thought and worship. All along in our history, as a general thing, the higher dignitaries of the Catholic church have been broad-minded, liberal men, and the clergy have been devoted, untiring, and unassuming.

As a consequence of religious freedom and the placing of all Christian denominations and sects upon equality, there has sprung up between them a feeling of sympathy and good-will. This feeling is growing and evidently from the character of the situation must continue to grow. Every one of the different sects and denominations has as its religion the gospel of Jesus Christ. They all acknowledge one and the same Divine Master and Teacher, and have received from Him the same identical instruction. The command to preach the gospel everywhere, to every creature, is alike obligatory upon them all. In obeying this command of Christ, the different Christian sects and denominations will do well if, when seeking to convert non-Christian people, they preach His gospel and do not trouble their hearers with the nice tenets that show the distinction between their several creeds. In that way they will avoid clashing with each other and will not by idle discussion distract and disgust those who are seeking to know the truth. In that way they will be teaching Christianity as Christ and His apostles taught it, and may well expect that success will crown their labors.

It is said of the ethnic religions that they are purest at their beginning and that, subsequently assailed by corruption, they grow less pure. We can have no doubt that Christianity at its fountain head is absolutely pure. Christianity at its fountain head is the gospel of Jesus Christ, is the word of Him who said, "I am the bread of life. Whosoever cometh to me shall not hunger." The gospel of Jesus Christ is the teaching of the incarnate God, Himself. Implicit faith in the gospel and strict obedience to its teachings are the evidence that a man is a Christion. If beyond that, rites, ceremonies, and creeds are instituted for Christian observance, they should not be made a subject of controversy. All the nations of the earth that are maintaining a civilization of an elevated character, progressing in the arts and sciences, and aiming in all things at improvement

with the possible exception of Japan, are Christian nations. The impulse that awakened Japan and caused her to join in the march of improvement was given by Christian nations. Her leading men have investigated the causes that have placed the Western world so far in advance of the East in everything which elevates man and contributes to his well being. One of her far-seeing statesmen has said, "Japan wants Christianity, not the Christianity of any particular denomination of Christians, but the Christianity of Jesus Christ, which, when she has received it, will be not the Christianity of Europe or America, but the Christianity of Japan."

It is plain that the gospel of Christ, unadulterated with creeds and dogmas, will draw all people to it. The Deity portrayed by that gospel is the God that humanity longs for. He became incarnate and walked on earth with men and taught them. He is their loving father, always present and ever watchful of His children. Christ came not to destroy the laws of Moses and the prophets, but to fulfil them; that is, He came to adapt the old laws to existing circumstances and accomplish their intent. The mission of Christ was to the Gentiles as well as the Jews. He no more came to destroy the laws of Gautama, Confucius, and the Gentile prophets than he did to destroy the laws of Moses and the Hebrew prophets. He came to fulfil them both. When the mission of Christianity as affecting other religions is understood and it is left to work out its own results, it will become the universal religion. No religion that does not recognize and receive to itself the truths of all other religions can ever become the universal religion. The Christian missionary in non-Christian lands ought always to bear in mind the ideas of Dr. Watts expressed in these lines:

> "Seize upon truth where'er it is found
> Among your friends, among your foes,
> On Christian or on pagan ground,
> The flower's divine where'er it grows,
> Neglect the prickles and assume the rose."

This idea was always borne in mind by the Apostle Paul in his missionary labors, and he never failed to recognize a truth in the old religion of those he sought to convert, nor did he quarrel

with those whom he had converted about their old rites, ceremonies, and customs not in conflict with Christianity, however repugnant they might be to his personal tastes and habits. Good results were always realized from his labors. Modern Christian missionaries in their efforts to spread the gospel in heathen lands have met with success in an indifferent character when compared with the mighty work accomplished by the apostles and early Christians. Their want of marked success may come from the failure to study the example of the apostles and profit by it. They have not reached those whom they would convert. The light has been so presented that either it was not perceived at all, or if it was perceived it did not receive fair consideration.

A warm welcome and a fair hearing are essential for missionary success, but our missionaries have not been introduced into the so-called heathen lands in such a way that it was reasonable to expect for them a welcome and a hearing of that character. Their mission has been heralded as a mission to men very low down in the scale of humanity. Even the good and learned Bishop Heber, in his familiar missionary hymn, alludes with great melody and force to the degraded condition of the people who are the proposed subjects of missionary labor, as "heathen," "bound in error's chains," and "in their blindness bowing to wood and stone." A fair sample of the whole hymn can be seen in the following verse:

> "What though the spicy breezes
> Blow soft o'er Ceylon's isle,
> Though every prospect pleases,
> And man alone is vile."

The principal religion of Ceylon is Buddhism, and, saying nothing as to the injustice of calling a devout disciple of the gentle Buddha vile, it is certainly injudicious for missionaries to commence efforts to convert Buddhists or other non-Christian people to Christianity by calling them "vile." Success will attend the labors of our missionaries of today when they study the situation and, taking the example set by St. Paul for their guide, shall regard and teach the heathen as human beings who learn, think, and feel like other men and who are capable of receiving into their hearts and realizing the truths of the gospel.

When in this manner missionary work is done and the zeal of Christians everywhere awakened, it will be found that the salt has not lost its savor and that the gospel restored to its legitimate position and receiving the support of all Christians has regained the power it had in the apostolic days, and is capable of becoming what it was intended to be, the religion of all mankind. Christian nations are at this time anxiously seeking for some means that will save the world from the horrors of war and assure permanent peace. It does not seem to have occurred to them as yet that Christianity is a means by which that end can be secured. They are, however, on the road that leads to that conclusion. They want permanent peace and are attempting to secure it by arbitration treaties. They will soon find that arbitration treaties cannot restrain the old war spirit unsoftened by Christianity and nursed by the maintenance of standing armies that are immense and of navies that darken all the seas. Under such conditions it is idle to talk about securing permanent peace by arbitration. The reign of peace cannot be secured until the divine element in man is awakened by an awakening so general and powerful that its influence controls all nations. Religion is the only power that can awaken the divinity in man and the gospel of Christ is the only religion which affords a hope that it will become the universal religion and thus be able to awaken everywhere what is God-like in man and prepare the way for permanent, universal peace. Then and not till then will the time have arrived, foretold by the Prophet Isaiah, when "swords shall be beaten into ploughshares and spears into pruning hooks."

THE ANNEXATION OF HAWAII: A RIGHT AND A DUTY.

PRESIDENT'S ANNUAL ADDRESS DELIVERED BEFORE THE GRAFTON AND COÖS BAR ASSOCIATION AT WOODSVILLE, N. H., JANUARY 28, 1898.

Gentlemen of the Association:

Our fifteenth anniversary has arrived and we will now enter upon its exercises. I give you a cordial greeting and bid you welcome here, trusting that we are all devoutly thankful for the Divine care and mercy that have sustained us during the year and brought us once more together.

I shall venture to address you upon the subject of Hawaiian annexation, although I am aware that it is a subject about which there may be different opinions. I am convinced, however, that far-reaching consequences will affect our country for good or for ill accordingly as this subject is rightly or wrongly disposed of. Therefore I claim that we should study the subject, hear discussion upon it, and be prepared to give our influence, whatever it may be, in the right direction. Especially do I claim that upon questions of this character the bar should be prepared to advise and act understandingly, and that every American citizen, with intelligence sufficient to comprehend his duty, as such citizen should expand his ideas and extend his vision beyond the attainment of mere partisan advantages.

Some time ago I wrote a paper which discussed this question and as it has not been published I propose to use it on the present occasion. There are some things in it which I might qualify or explain in the light of recent occurrences, but I am entirely content that the grounds there taken should remain as they are and be considered the record of my judgment both as to what the situation is and as to what ought to be done.

The subject of the paper to which I have referred is entitled "The Annexation of Hawaii: a Right and a Duty," and is discussed as follows:

The annexation of the Hawaiian Islands to the United States is a matter that demands the serious consideration of the American people. It raises questions that ought not to be discussed and settled in partisan spirit, but there should be honest inquiry and a judgment based upon conviction of what is just and for the good of all concerned. In view of the present situation and the past relations between those islands, this country, and other countries, it seems strange that any enlightened American citizen should be found opposed to their annexation. Such an opponent cannot stand on the ground that our national Constitution does not authorize us to receive additional territory. The right of the federal government to receive additions to its territories has been established by numerous precedents. Since the adoption of the Federal Constitution, vast territories from time to time have been added to the United States. According to our laws and according to our national policy and practice, there can be no doubt that our government has the power to make a lawful acceptance of the proffered annexation. The offer is made to us by the government of Hawaii of its own motion; a government fully established and recognized by the United States and the other nations of the world as in the actual and rightful control of its people. The parties are competent to contract. It simply remains for us to accept or reject the offer, and in so doing to be governed by the duty we owe to ourselves, to the Hawaiian people, and to the rest of the world. Those islands lie much nearer to us and our continent than they do to any other nation or continent. They belong to the American continent, and may properly be regarded as an appendage thereto. Steam and electricity make them comparatively near to our shores, and if the Nicaragua canal is built they will be still nearer. Their climate is salubrious and mild, with only a slight difference between the extremes of heat and cold. Their soil is rich, producing sugar-cane, coffee, rice, and tropical fruits in abundance. The sides of their mountains afford excellent pasturage. Their value for agricultural and grazing purposes simply would make their annexation a valuable addition to our territory. It is the testimony of competent engineers that those islands can be fortified easily, so as to be as impreg-

nable to the assault of hostile navies as any of the numerous and costly fortifications which Great Britain has erected and maintains on the shores and islands of America. As a naval station for the defence of our Pacific coast, they would be invaluable. For many years last past this country has had a great and profitable trade with those islands. They are so far Americanized now that annexation will be but one step further, and the great emigration from this country thither which would immediately follow annexation soon would complete the work of their assimilation to our ways and institutions.

Ever since Hawaii became known to the civilized world our statesmen have contended that our interests there were paramount to those of all other nations, that we could not permit colonization or the exercise of control there by other countries, and that we favored the independence of the islands, but if their independence could not be maintained, then their ultimate destiny must be in our hands. To these contentions of our statesmen the world has yielded. We have practically controlled Hawaii for the last fifty years. Our missionaries have gone there, Christianized the natives, and settled there. Our men of affairs have gone there, taken the lead in all important matters, and out of barbarism have created civilization. Hawaii has been justly called the key of the Pacific ocean, and as such key its value is apparent when we consider what a vast commerce in the future is sure to seek for itself a highway over the waters of that ocean. In that commerce our country ought to lead, and will if she is true to herself. The time has arrived when Hawaii, unable longer to endure without protection her isolated condition, has petitioned our government to be permitted to become a territory of the United States. The question is, Shall we grant this petition? It has already been shown that the annexation of Hawaii would be an acqusition of great value. It has been said that he who will not provide for his own household is worse than an infidel; and it may be added that the nation which will not look out for its own interests and make the welfare of its people as secure as possible is an imbecile and contemptible nation. In this age all nations except the United States are intent upon adding to their territories. Great Brit-

ain, France, Germany, and Russia are searching the remotest corners of the earth, and grasping new territory wherever they can do so with impunity. Lesser nations, in a smaller way, are doing the same thing. The United States alone seems to hesitate about adding to herself new territories, however desirable they may be. If we do refuse to allow the rich, desirable, and important Hawaiian Islands permission to became a part of our territory, it will be an act of utter recklessness and indifference in respect to our interests as a nation and our welfare as a people. It is certain that our duty to ourselves requires us to accept this offer.

The next inquiry is, What are the duties we owe in this matter to the people of Hawaii and to the rest of the world?

Let us first consider our duty to the people of Hawaii. Their islands are situated where all the great nations of the world desire a foothold. They have stood alone and independent until their position has grown so important that they realize they cannot stand alone any longer, and that they must ally themselves with some strong power. They have selected as that strong power the United States, the nearest to them of all nations, not only geographically but in every respect. They received from the United States Christianity and everything else that tends to distinguish them as they now are from the savages discovered by Captain Cook in 1778. Hawaii turns to the United States for protection as a child turns to its father. It is hard to conceive of a moral obligation stronger than the one that rests on us to accept this offer. All, or at least some, of the enemies of annexation say that "they never will consent that Hawaii should become a part of this country," and with the same breath they announce that "they will never permit any other nation to colonize or control it or be allied with it, and that, though weak and helpless, Hawaii must stand alone and independent." No reasonable man can consider such treatment of Hawaii as this to be humane and just. If the people of the United States have become indifferent to their own interests, and if they are determined to ignore all the claims that the people of Hawaii have upon them, then their only honest course is to say in response to this application, "No, we will not take you; go seek protection elsewhere."

The importance of Hawaii as a coaling station for all the shipping of the Pacific ocean, whether commercial or naval, is obvious. In our hands the aid that it would afford us in protecting our extended Pacific coast, would be of immense value. In the hands of an enemy with a naval power, it would be a constant menace to us. Navies and armies could be safely congregated there for raiding the Pacific coast and for the invasion and occupation of our Pacific states. Mr. Blaine called Hawaii "the key of the Pacific ocean." These facts in the past have caused our secretaries of state, among whom were Daniel Webster, William L. Marcy, and James G. Blaine, to declare in their official capacity that the United States has such an interest in Hawaii that she can never allow any other nation to colonize or control it; and now it is on account of these facts that the enemies of annexation are compelled to qualify their declaration that they will not consent that Hawaii should be annexed to this country, by the further declaration that she must not be colonized or controlled by any other country; that she must stand alone, independent, and guard the key of the Pacific unaided. In view of all the circumstances it is unnecessary to say that such a response actually made to the petition of Hawaii would be most unreasonable and brutal. It would undoubtedly result in compelling her to throw herself into the arms of some other power. Other powers know the value of Hawaii, and if they could get it would consider it a great acquisition. England would have taken possession of it long ago if our statesmen had not objected on the ground of our paramount interest. England has yielded to our claim and will make no objection if we accept the offer of annexation. But if we reject the offer and Hawaii then offers herself to England, England will surely accept. Our protests, grounded on paramount interests, will then be disregarded. England could then reply to us, when we made such protests, and say justly, "Your conduct shows that you have no such interest. These islands need protection and they asked you for it and you refused to give it. If you had any interest in the islands you abandoned it when you refused to give them protection. You cannot succeed in this dog-in-the-manger policy, refusing to do a thing necessary and proper to

be done and prohibiting everybody else from doing it. Hawaii asked you for protection. You refused to give it. She now asks us for protection. We shall give it."

We may be assured that when we renounce Hawaii England will take it and hold us to our renunciation.

Japan, emerging from semi-barbarism and in the morning twilight of her civilization, peering across the vast waters of the Pacific, sees and appreciates the importance of Hawaii. She construed the treatment that President Harrison's treaty of annexation received and the chivalrous course that President Cleveland took in behalf of the deposed queen to be evidence that the United States didn't care for Hawaii and would have nothing to do with it. In that view, Japan has caused her people to emigrate in great numbers to Hawaii with the evident purpose of obtaining ultimately the control of the islands. This purpose was so repugnant and became so patent to the Hawaiian government that it prohibited recently any further landing on its soil of emigrants from Japan. The inhabitants of Hawaii of American or European origin, and its inhabitants of aboriginal origin, who are all Christians, will not submit voluntarily to be governed and controlled by Japan whose people are still pagans and idolaters. There is little doubt that if we refuse to take Hawaii she will not go to Japan but she will tender herself to England and be accepted. Our country, then, in the eyes of all other countries will be estopped from making any objections and in our own eyes we shall be so estopped by every consideration of right and justice. The time has arrived when we must either accept the offer of Hawaii and annex it or repudiate the rights we have hitherto asserted over it and relinquish all claim to control its destiny.

The acquiescence of other nations heretofore in our exercise of control over the islands, and in our asserted right to permanent control over them, was a virtual contract on our part with those nations that we would continue permanently to maintain such control, and that they could deal with us thereafter for the accommodation which their commerce on the Pacific Ocean might require at those islands. If we should reject the proffered annexation we shall not be able to do what the various nations of

the world have a right to expect us to do for them. The acquisition of Hawaii by England would give her another impregnable position near the shores of America from which she could easily assail and plunder our Pacific cities or land on our coasts an invading army.

Various objections have been urged against the annexation of Hawaii, all of which on investigation will be found to be either irrational or frivolous. It has been objected that the islands are too far out in the ocean and that it will cost us much labor and money to defend them. In reply we will call attention to what we have already shown, viz.: that Hawaii is of vast strategical importance; that it is the key of the Pacific ocean; that in our hands it is a point of infinite value for defence; and that in the hands of an enemy it is a point where he could aggregate his resources in security and with great facility raid or invade our Pacific states. Some of the opponents of annexation, when hard pushed for arguments, have assumed that the educated and Christian Hawaiian natives are not represented by their government and that they are opposed to having their country become a part of the United States. Appeals are made to the sympathies of the American people not to compel by superior force these contended and intelligent natives against their wishes to become citizens of our country. There is no evidence that the native Hawaiians are opposed to becoming such citizens; on the contrary, whatever their feelings may be towards their existing government, the evidence is that they favor annexation to the United States. All agree that these native Hawaiians are educated and intelligent. They know what their situation is and what it will be if they become American citizens. The assertion that they are really opposed to annexation to the United States is not only without proof but it is without the probability of truth.

Another objection is that we want no more territory; that if we take Hawaii it will be a precedent for taking Cuba and Canada, if they should be hereafter offered to us, and that we want no more territory, however valuable it may be or however just and reasonable it may be that we should take it. This objection involves the consideration of matters of vital impor-

tance to the well being of our people. It is certainly important that a nation should keep open all the avenues in which its people can escape from inertia and sloth and get a training that develops their mental and physical powers and qualifies them to do effective work for the elevation and improvement of their country. Our commerce and shipping that once found their way over all the waters of the globe, that rivaled and threatened to surpass the commerce and shipping of Great Britain, are now gone. The schools of seamanship thus furnished kept the energies of our people alive, developed their brawn, intellect and courage, and fitted them for valorous deeds. Our country was then full of hardy, brave, and patriotic seamen, but now it is with difficulty that seamen enough are found to man our infant navy. We have grown so much afraid of the salt water that in this age of steam, when in a little space of time oceans are crossed, our people are importuned to reject the annexation of islands belonging to our continent because they are a little way out at sea. Formerly our millionaires were merchants, such as Girard, Gray, and John Jacob Astor, who accumulated their millions by gigantic commercial enterprises carried on over the waters of the world. Now our millionaires accumulate their millions by creating gigantic monopolies and trusts and by wrecking railroads. The whaling business has been a great school for developing in our young men hardihood, daring, and energetic habits. That school also is closed, probably never to be opened again. Our people can hardly be said to carry on the fishing business with the vigor of former days. In fair competition, they scarcely keep even with Canadian fishermen and seal-catchers. The whaling business died out by reason of inevitable changes. The tameness of our fishermen comes from our general decay in sea-going energy. Our commerce and shipping have dwindled to their present impotent condition by reason of restrictive navigation laws and prohibitory tariffs. The only avenue now open that leads to what will preserve the energy and enterprise of our people and keep them in the line of national progress is the avenue that leads to new lands where by toil and hardship the wilderness can be subdued and in its stead civilization planted. This avenue, if no more territory is to be added

to our national domain, is now also practically closed. The last of our good settling lands were taken up when Oklahoma was organized and opened up for settlement. The tremendous rush of stalwart humanity to get a foothold on the virgin soil of Oklahoma afforded a glimpse of the mighty forces that have made for us so many great and prosperous states out of what a little while ago was a howling wilderness. In the past the energy, muscle, and brains of the country cultivated, developed and employed in whaling, in the fisheries, in ocean commerce, and in the settlement of new territories have made the United States a great and powerful nation. And now, whaling being a dead industry, the fisheries in a decline, no prospect of a restoration of our lost commerce and shipping, and our lands suitable for settlement all taken, the opponents of Hawaiian annexation come to the front and say that there must not be any more territory annexed to the United States. If this interdict against more territory is established and the United States forever limited to their present boundaries, while existing conditions in other respects remain, then the sooner our people cease their activities, retire within their shells and go to seed, the better. When a nation closes up all its avenues that lead to enterprise and progress, it has made preparation for death, and thereafterwards the sooner it passes to inertia and sloth and suffers itself quietly to be consumed by dry rot, the easier it will sink into nonentity and be forgotten. In such a case, however, energetic habits that can find no legitimate vent will be liable to break out in criminal disorder and hurry the nation's death by rioting, havoc, and destruction. Already so many of the avenues in which our national energies have operated hitherto have been either closed or obstructed that symptoms of decay and disorder thereby occasioned have been manifested. There has been a falling off among our people in the reliance that the individual has upon himself. There is a growing disposition to seek paternal aid from the government. The capitalist embarked in a business venture, wants legislation that will insure him his profits. The farmer asks the government to loan him money with which to lift his mortgage. Recently an army, recruited from the unemployed and headed by General Coxey,

marched on Washington, demanding of Congress that it should enact measures which would give them employment. Discontent and uneasiness, generated by idle energies, pervade the multitude. It is certain that this country will fall into premature decay and wither away long before it has reached its prime, unless the forces that have built it up to its present magnitude are kept employed. We must not heed the voice that says, "Let us stop here, keep what we have got, and proceed no farther." We cannot stand still. We must advance or we shall certainly retrograde. Any lullaby about feasting on what we have and working no more is luring us to destruction. We have only one alternative. We must either advance on the line that Washington, Jefferson and our great statesmen have marked out and on which we have hitherto proceeded or fall back amid shame, disorder, and misery, and take the road that leads to final extinction.

The age of our country is a little more than a century. Comparatively speaking, England is very old, whether her age is reckoned from the withdrawal of the Roman legions and the Anglo-Saxon occupation in the fifth century or from the Norman conquest in the 11th century; yet through all the ages of her national existence she has constantly been augmenting her energies by keeping them actively employed, and today she is more aggressive and progressive than ever before. England commenced her career as a nation with a section of the island of Great Britain. In the course of time she annexed Wales and Ireland by conquest, and Scotland by treaty. She has extended her empire by conquest over almost half of the continent of North America. She has conquered and maintains dominion over the immense empire of India. She holds undisputed sway over innumerable islands scattered everywhere, lying in all the waters and zones of the globe and varying in size from an island of continental dimensions with millions of square miles down to an island containing but a few acres. England possesses more or less territory on all the grand divisions of the globe and she boasts with truth that the sun never sets on her dominions. She is never scrupulous about the right when she can take with impunity. She colonizes all her territories that are vacant, or

only roamed over by savage tribes, and English speaking people are rapidly multiplying throughout her dominions. She has torn down all the barriers to trade that she has ever erected, and urges trade on everybody. All the known avenues of trade are kept wide open and search for new ones is constantly made. The activities and energies of her merchants, cultivated and developed by their vast opportunities, have monopolized the commerce of the world and extended their traffic into the remotest seas and to all lands. Trade vigilantly sought after and prosecuted everywhere, and colonization of all parts of the earth steadily carried on, have fostered the spirit of enterprise in the British people and caused them continually to grow in hardihood, vigor, and intelligence. The same forces that have enabled modern England to surpass her former self in bold seamanship, daring adventure, and brilliant exploits have developed and strengthened the intellect of her people and given her energetic, far-seeing statesmen. Englishmen know and cherish the sources of their greatness. They also appreciate their faithful servants and treat with due respect the rulers who dignify and give character to the nation. Witness the honors recently paid to their very worthy queen.

England is not cited as an example for our imitation, but as an example for us to study and by such study to be profited. She has kept open every avenue where it was possible for her people to find employment, and as a consequence her people have always been characterized by thrift and industry, her laborers contented and her soldiers brave. Her navies control the seas, her merchants hold the commerce of the world, and her cabinet is ruled by strong, brainy men. The example of England teaches us what we ought and what we ought not to do. It teaches us that we ought to open up to our people all the avenues to employment of which we can obtain rightful control, and on the other hand it teaches us to shun the wrongs of England in seizing territory without right and extending trade by undue means. The lesson taught us by the example of England ought also to teach us to realize what supreme folly it would be for us to refuse the offer of a territory which we can rightfully take, and which is of great value to us, not only for its intrinsic

worth, but for its position and the security its possession would afford our country.

It has been asserted that if Hawaii was made a territory of the United States it could not be governed; that Congress has not power to govern it as a territory, and that it is not fit to be made a state. This assertion is the assertion of one who either wilfully misstates or is grossly misinformed. Congress is authorized expressly by the Constitution to govern the territories and has always exercised that power with perfect submission thereto ever since the government was organized. It has used its strong arm whenever necessary for the preservation of wholesome rule in the territories. In Utah it uprooted and abolished polygamy, planted and defended there by the stubborn power of religious fanaticism. Christianity was introduced into Hawaii two or three generations ago, and the living descendants of its aboriginal inhabitants have been reared and trained as Christians. They can read and write and are of a peaceable, law-abiding disposition. The Chinese and Japanese now resident in Hawaii are mere laborers, and if the United States laws are extended over it their further immigration will be restricted. A slight consideration shows the absurdity of the claim that Congress, with its ample powers, will find any difficulty in governing Hawaii, because of a small civilized remnant of the aborigines, or on account of a few laborers from China and Japan. The further fact that Congress would not be authorized to admit Hawaii as a state, until in its judgment she was fit to become a member of our family of states, ought to quiet all apprehension of any bad result from her annexation. Fears have been expressed that our country is extending its boundaries too far for safety, as it respects external defense and internal harmony. The only mode of determining whether or not such fears are well grounded, is to canvass without prejudice the situation as it is. In regard to external defense there can be no reasonable apprehension that any nation of the western hemisphere can make a dangerous assault upon us. We have reason to fear danger from Europe and possibly from Japan. We cannot avoid anxiety so long as European fortresses like Esquimault and Bermuda, bristling with cannon are seen along the

coasts and on the islands of America. There will be reasonable ground to fear European encroachments until both the Americas and the islands appertaining to them are freed from European dominion. When the nations of the western world possess all its mainland and islands, our country will be reasonably secure from either European or Asiatic invasion. History shows that evolutionary changes among nations are constantly going on, that their territorial limits are changed, that new nations are formed and old nations transformed, or wiped out altogether. It is not impossible or even improbable that the time is not far distant, when the several territories belonging to the independent nations of the western hemisphere will embrace the entire American continent and its islands, freed from all claim of either European or Asiatic domination. The statesmen of all the different countries of America, recognizing the common interest in such a consummation, while observing all their obligations may be expected to acquiesce with satisfaction in events that tend toward establishing the independence of any American country now subject to European power. It is not to be expected that their statesmen will put any obstacles in the way of those evolutionary changes which tend to emancipate the entire western hemisphere from monarchic and despotic rule. We cannot refuse to annex territory when we thereby strengthen ourselves and bless the people we take, and when we also spread republican institutions, and make the external defenses of our own and all other American republics more secure.

As it respects the suggestion that a further annexation of territory to the United States will destroy internal harmony and pave the way for a disruption of the Federal Union, a consideration of the character of our government shows that this objection does not rest upon a good foundation. A consolidated government, extending over a vast area, and embracing a great variety of climate and production can be administered only with great difficulty and will be liable to fall to pieces at any moment. No such thing as liberty can exist in a broad empire containing a variety of different conditions as respects climate, people, and production, if it is governed absolutely in all matters throughout its entire boundaries by a central power. In such a case the

governing power in order to be effective must be a despotism, stern and relentless, and even then its hold will be precarious. The people will hate it and revolution will always be imminent. Its extension over more territory will render its hold still more precarious. The government of the United States is a government of a character altogether different. The federal government is the central power, and its authority is limited to matters that concern all the states alike, such as declaring war, making treaties, and regulating commerce, while each state is in full control of all its local and domestic matters. The federal government can command the entire resources of the country in its defense and in the maintenance of its honor. The several states, each independent of the other, as sovereign states, exercise all the powers appertaining to government except the powers delegated to the United States. The people of each state are left to govern themselves by themselves and for themselves in all matters of local concern, and in all those matters about which the citizen takes cognizance in his daily life. Our people are free, attached to their government, and are resolved to maintain it. No government on earth is stronger than ours. Our government will remain strong and our people will be free just so long as the federal powers and the reserved powers of the states are each exercised in accordance with the provisions of the Constitution. The Federal Union, by its delegated powers, protects the nation from foreign aggression and secures the general welfare. The states by their reserved powers protect the people from the tyranny of centralization and secure individual liberty. The Federal Union has not been weakened by the vast territories acquired and the many new states that have been admitted into it since its formation. On the contrary without doubt it has been strengthened thereby, and, but for these acquisitions, might not now be in existence. In a union embracing a great many different states, each with its peculiar views and interests, a common ground of disaffection is not likely to exist over states enough to inaugurate a successful rebellion. So long as our Union answers the purposes for which it was created, all parts of it will be attached to it, and will render it substantial support. The more extensive it is, the more powerful will it be, and the

greater will be the difficulty that designing men will have in making combinations sufficient to overthrow it or even endanger it. New states might be admitted into our Union until the whole continent of North America is embraced within its limits, with good results, provided that such additional new states contain a population who appreciate its blessings and are devoted to its maintenance. Congress, to the extent of its constitutional authority, could legislate for the Union, limited only by the boundaries of North America, just as well as it can legislate for the Union as it is now bounded. All the states, both old and new, could exercise their reserved powers each in its own way and render due obedience to the general government just the same, whatever the territorial limits of the Union might be. It is not suggested that we go on annexing territory indiscriminately without considering the character of the annexations we make, but it is intended to be asserted that our government and institutions are such that they can be extended over additional territory without impairing their successful operation, and that the admission of new states into the Union until it reaches far beyond its present limits will give strength and not weakness to the body politic. It is further intended to be asserted that we need additional territory in order that our people may find the employment and get the discipline necessary for the development, strengthening, and preservation of their energies, and in order that our progress as a nation may not be arrested.

Hawaii is offered to us under such circumstances that we can rightfully accept it. All of our people agree that it is of great importance to us, that our interest in it is paramount to that of any other nation, and that we must not lose control of it or suffer it to pass into the possession of any other power. We know that other powers are desirous of possessing it, and but for their recognition of our right, some of them would have taken possession of it long ago. We know that Hawaii is utterly unable to protect itself, and for us, in view of all the circumstances that surround the question, to refuse this offer would be something worse than folly,— it would be madness.

It has been objected that the annexation of Hawaii will require us to augment our navy and to become a strong naval power.

This objection assumes that if we do not annex Hawaii, we shall not need an augmented navy and will never have occasion to become a strong naval power. Nothing can be further from the truth than this assumption. The nations of the world are vying with each other in the construction of monster iron-clad ships, armed with all the terrific modern implements of destruction. Today a nation is feared and rated as a power of the first, second, third, fourth or fifth magnitude, or of no magnitude at all, according to the number and size of the iron-clad ships she can put into immediate and effective service. If the United States desires to maintain herself in the eyes of the world as a strong power she must have a strong navy. In this age, neither population nor wealth nor anything counts towards creating a wholesome respect for a nation that is without a strong navy. Already all the leading nations of the globe except our own are armed and prepared for war with iron-clad ships and engines of destruction not known or dreamed of in any former age. Years of labor and skill have been expended in constructing and perfecting each one of these ships and engines. The best intellects have been constantly employed in the invention and improvement of instruments of havoc and death. England, France, Germany, and Russia have already partitioned and divided between themselves the great continent of Africa, the islands of Polynesia, and the largest part of the vast continent of Asia. Soon that part of Asia not now thus disposed of will be appropriated in like manner, and then those nations will be ready to give their undivided attention to the American continent. When that time arrives and they proceed to partition, divide and appropriate to themselves the American continent, what will become of the Monroe Doctrine? What can we do or say about it? Unless we then possess a powerful navy, the Monroe Doctrine will be heard of no more, and we can do nothing nor say anything that will be heeded. South America, the West India Islands, Central American, and Mexico will be disposed of easily, and our rich cities and prosperous states will furnish luxurious feasting where the territorial gormandizers of Europe can gorge themselves with impunity.

But upon the other hand, let the United States then possess

a powerful navy, and Hawaii well fortified, with reasonable protection for our Atlantic coast, and the Monroe Doctrine will be respected. We shall be safe in the enjoyment of our national independence, have a standing among the nations of the earth, and be able to exercise a wholesome influence upon the world.

It is idle to deny what is plainly indicated by the signs of the times. The tremendous and continuous rivalry among nations, every one striving with all its might to be foremost in the magnitude of its preparation for war has a meaning. It is not fun, it is business. It means that this immense preparation is to be utilized, and that either with or without the actual clash of arms the nations that are prepared for war are going to dominate and control all nations and people that are not so prepared. A numerous population and vast wealth without corresponding protection will invite the invader. Whether we annex Hawaii or refuse so to do, it is certain that our standing in the world cannot be maintained in the future nor our national existence be secure except we possess a strong navy.

It is also certain for reasons already given that the annexation of Hawaii would greatly augment the national prestige and security that a strong navy would give us, and at the same time add much to the efficiency and usefulness of such a navy in guarding our coasts.

There is another objection to the annexation of Hawaii, coming from that part of the country which has engaged or proposes to engage in the cultivation of the sugar beet. It is claimed that the great amount of cane sugar that Hawaii would produce if annexed would ruin the sugar beet industry. The miserably selfish few who make this objection admit in the very terms in which they make it that they are clamoring in behalf of an insignificant interest of their own against the welfare of the whole country. They denounce the measure because they fear it will enable the American people to get their sugar from their own territory at a low cost and thereby diminish the chances for profits in the sugar beet experiment. As a reason for opposing annexation, they assign a strong reason for its consummation. The patriot for his country's good will sacrifice his private advantages. The man who will injure his

country to profit his private interests and the traitor are made of the same stuff. For pelf either will sell his country. At all events the worth of a citizen who for selfish considerations will sacrifice the welfare of his country may be estimated at a low figure, and it may be safely cauculated that those who oppose the annexation of Hawaii are either ignorant of the situation or on account of some selfish motive are hostile to the general good. Perhaps after all we ought not to be surprised because the proposition to annex Hawaii meets with opposition.

Judging by the past, we must expect some opposition however strong in favor of annexation the case may be. It will be remembered that there were Tories in the American Revolution, and that ever since our national existence began, down to the present time, we have had those among us who have clamored violently against the adoption of every measure, which, when adopted, has contributed to the growth and prosperity of the country.

ARGUMENT.

[It may well be regarded as matter of regret that there can be no direct record of the many able and effective arguments made by Harry Bingham, in the discussion of questions of law and of fact, during the more than fifty years of his professional career. Certain it is that as no other man of his day exerted a more powerful and beneficent influence upon the character of New Hampshire legislation, so the spoken words of no other lawyer of his time, or of any time, were more effective than his in moulding the development of our jurisprudence.

And yet there are no complete reports of any of his arguments, and, beyond two or three cases, not even an abstract has been preserved. In point of fact, he seldom or never made a written argument, speaking, almost invariably, extemporaneously, or from brief notes, elaborated according to the demands of the occasion, with little regard for rhetorical elegance or literary finish, but with a logical power and an earnestness of manner which seldom failed to carry conviction.

Of the arguments made by Mr. Bingham, of which measurably complete stenographic reports have been preserved, which include two arguments in the Supreme Court, in 1870, in the celebrated case of the *Northern Railroad Co.* v. *The Concord Railroad Co.*, and the closing argument in the hearing before the legislative committee on the Hazen and Atherton bills in August, 1887, the latter is selected for presentation here as a specimen of Mr. Bingham's forcible and direct manner of address in oral argument, the subject being one of more general interest than is involved in the others.]

ARGUMENT OF HON. HARRY BINGHAM AGAINST THE HAZEN BILL, AND IN FAVOR OF THE ATHERTON BILL, BEFORE THE RAILROAD COMMITTEE OF THE NEW HAMPSHIRE LEGISLATURE, AUGUST 12 AND 13, 1887.

Mr. Chairman, and Gentlemen of the Committee and of the Legislature:

I come now to say the last that can be said in behalf of the Atherton bill, so-called, and in opposition to the Hazen bill,

so-called. I speak especially in behalf of the Boston, Concord & Montreal Railroad. I do not know that I shall be able to make myself heard through this hall, but I will do the best I can.

In my judgment, since New Hampshire became a state, there has not been an issue before its Legislature more grave, or that went deeper, or that more vitally affected the dearest interests of the state, than does the issue which is now pending before you. On the one side are the railroads of New Hampshire that are controlled by New Hampshire interests. On the other side is a corporation controlled by interests which are foreign to New Hampshire, and which have already obtained the control of all the railroads in the northeastern half of Massachusetts, and in the eastern part of New Hampshire, and in the whole of the state of Maine. The question before us now is, Shall this corporation, already so largely in the control of railroads in Massachusetts, in New Hampshire, and in Maine, be put into the control of the remaining railroads of New Hampshire, and all railroad competition be wiped out? A second and perhaps more vital question is, whether you will permit one corporation to subject all the railroads of the country and to blot out all competition, in order that a few individuals may take from the public untold millions and put the same in their pockets by stock watering and by stock gambling?

In what I am about to say to you I desire to make plain my reasons for the position I take. There are a great many things which I ought to call your attention to, and some of them of considerable intricacy, and which ordinarily are not matters of common reflection. I therefore must respectfully ask of you your close attention. I shall endeavor as far as possible to avoid all personal allusion. I shall make such allusion only when it is necessary for me so to do in order to illustrate the cause which I advocate. And that cause I claim to be the cause of the railroads of New Hampshire and the people of New Hampshire. (Applause.)

In the outset something like preliminary definitions and references to fundamental principles should be made. And the first inquiry I will make is, What is a corporation? A corporation, as defined in the books, is an artificial being, existing only in

contemplation of law. It has perpetual succession; that is, it never dies. It has individuality as contra-distinguished from a partnership, which is merely an aggregation of individuals. A corporation is the legal owner of what has been appropriated for the enterprise for which the corporation was created, and it is the trustee of the corporators or stockholders. Stock is legitimately issued when it represents value which has been put in the corporation. When stock is issued without a corresponding value being put into the corporation that is water. Corporations are needed. They are needed when associated capital is needed for the carrying out of any enterprise that is too great for individual effort.

The next inquiry is, What is a railroad corporation? What is it and what are its duties? A railroad is a public corporation created for the benefit of the public. It is the duty of the corporation to accommodate the public at the lowest rates which will give them reasonable compensation. Again, when, if ever, is railroad consolidation justifiable? I take the ground that railroad consolidation is only justifiable in a continuous line, and in consolidating the branches of that continuous or trunk line. When that is done all the legitimate and proper benefits that can result from consolidation have accrued. Of course, where there are many short railroads in one continuous line, they can be operated cheaper as one road than they can as many different and independent roads. But I take the position that different systems of railroads, independent continuous lines, should never be consolidated. You then have all the evils that result from consolidation without any of the benefits. I maintain that no benefit would come from consolidating, for instance, the Fitchburg with the Boston & Albany, two independent and distinct systems. Neither could aid the other in running the other. Nor should the Boston & Maine be consolidated with any other independent system. Then again, gentlemen, when lines are consolidated the reduction of expense should be saved to the public and not put into speculators' pockets. And again, when increased business brings in large profits and more than lawful compensation for existing stock, fares and freights should be reduced. Watered stock should not be permitted to take the

increase of profits and so keep up fares and freights as high or higher than ever. These, gentlemen, are self-evident truths, and they are self-evident truths which I desire you to keep in mind during the entire course of the remarks which I am about to make.

We have before us for consideration by this committee, and for final action by the Legislature, two bills. First, the Hazen bill. What is that? It provides for leasing railroads generally in the state to anybody. It would authorize the leasing of all the railroads in this state to the Boston & Maine. The bill also specially authorizes the leasing of the Northern Railroad and the Boston, Concord & Montreal Railroad to the Boston & Lowell Railroad, and undertakes to give that construction to the Colby bill. It is retrospective so far as it proposes to affect existing leases.

What is the other bill, the Atherton bill? This is designed especially to enable the Concord Railroad and the Boston, Concord & Montreal Railroad to unite. And the purpose further is, that subsequent to the union there shall be a development of the central and northern portions of the state whose resources are now largely undeveloped. The idea is to develop the unsettled portions of Grafton County and of Coös County. It provides for the building of branches such as shall effect that purpose. Section 1 provides the mode in which the union may be effected by the votes of the stockholders of both corporations, upon terms which shall be approved by the Supreme Court; thus putting it beyond all peradventure that the terms of the union will be such as they should be. I will only glance at some of the sections. Section 3 provides for the leasing of the Northern Railroad. Look at the situation of these roads, the Concord Railroad, the Boston, Concord & Montreal Railroad, and the Northern Railroad. Naturally they are parts of each other; and if there were no charters now, and the question of chartering were to come up before this body, there is no doubt but you would charter all three of those railroads as one. The bill makes a liberal provision for the Northern Railroad, the stock of which happens to be owned in Massachusetts and now in the interest of the Boston & Maine. But the stockholders belonging to New

Hampshire are, as I understand it, friendly to this bill with the exception of its leading men here in New Hampshire. I do not undertake to say that Mr. Sulloway is in favor of it or that Mr. Todd is in favor of it; because I understand both to be in the ring that is going to absorb all these railroads. Section 10 provides that immediately upon the union they shall proceed to the construction of these roads in northern New Hampshire, which everybody knows ought to have been built long ago, and which would have been built long ago had that greatest of railroad men ever in New Hampshire lived, John E. Lyon. (Applause.) But his unfortunate demise put an end to all progress in that locality.

It is the purpose of this Atherton bill to go on and procure these developments which the lamented John E. Lyon intended to have carried out. Section 12 makes provision for the terms of the union, and particularly it sets forth the manner in which the different kinds of stock of the Boston, Concord & Montreal road and the stock in the Concord road shall stand in the new corporation. And it makes the provision that the old stock and the new stock in the Boston, Concord & Montreal corporation shall not draw any dividends at all until the entire existing debt of the corporations, and that means the debt of the Boston, Concord & Montreal, is paid. Well, I understand there has been some considerable comment made because if this union should take place even under the provisions of the Atherton bill the old and new stockholders in the Boston, Concord & Montreal Railroad would sometime or other get a dividend. Gentlemen, that old stock is still more than half of it owned by the very men who paid it into the corporation at the very outset of the undertaking, or in the hands of the descendants of those who paid it in. And they have been waiting and have not got a cent of dividend nor a cent of interest for this money which was put in forty years ago, and the public have been enjoying the benefits of it for that forty years. They have been patiently waiting for a dividend. It seems that this conscientious Boston & Maine corporation and their attorneys here are terribly troubled because these men, who paid their money in forty years ago for the public benefit, and the public have ever since enjoyed it, are going to get a

dividend. For my part, it seems to me that no more graceful act, if it can be done in a just and proper way — no more graceful act could be done than to let some of these old heroes and veterans feel a little dividend in their hands before they die. (Applause.)

But my Brother Drew is exercised because he says there is a syndicate of twenty persons that have bought up what stock John E. Lyon used to hold, and Mr. Bell, Mr. Vose, and Mr. Harlow used to hold. They have bought it up, and he says that notwithstanding the guards in the Atherton bill, notwithstanding the facts that by the terms of the Atherton bill the contemplated improvements on the Concord Railroad shall be carried out (that is, that the new depot contemplated at Manchester shall be built, a twin sister of the Concord depot and better yet, and that the iron bridges upon the line of the road, some three or four of them, shall be constructed, and that the road in all respects shall be kept up, and that it shall be paid out of the earnings and not one dollar charged to the construction) and notwithstanding that it provides that not one dollar shall be paid on this old and new stock until the entire debt, nearly four millions more or less, of the Boston, Concord & Montreal road is paid — yet my Brother Drew says that if you join the Concord road and the Boston, Concord & Montreal road it will give such an impetus to business that, notwithstanding the Atherton bill brings down the fares to three cents a mile and freights in proportion, still there will be such a rush of business and the profits will be so great from the Boston, Concord & Montreal road if you allow this union, that this whole debt will be paid up in six years, and then you will have to pay a ten per cent. dividend on this old stock. Well, gentlemen, if that is so, is this syndicate such a wicked fellow that in order to cheat him out of dividends on stock which he bought at the market price and squarely and honestly paid for, you will keep all northern New Hampshire still a howling wilderness and stop the wheels of progress right where they are? If that is really so I think the syndicate will throw all their stock into the fire, and they won't ask you a cent for it. For it would be a great pity to have this little lump of stock stand in the way of these old veterans and their repre-

sentatives, who put their money in and gave the public the benefit of it, getting a little dividend, as objection is made by these stock-waterers who have made their millions. Well, gentlemen, I will not say any more now about the syndicate, because it is not in the line of my argument. But by and by, when I get to it, I will say something about it and about the gentlemen who have talked about it. (Applause.)

I take the ground that the purpose of the Boston & Maine Railroad and its managers, as shown by the legislation they have obtained in Maine and that they tried to get in Massachusetts, and their acts, and the lease of the Boston & Lowell and the terms of that lease, and the acts of the Boston & Lowell and the similarity of the legislation obtained by them and the Boston & Maine are such that they are not to be trusted with the power given by he Hazen bill. The Boston & Maine Railroad has got from the state of Maine authority to buy the stock, indebtedness and franchises of all the railroads in New Hampshire and Massachusetts that it gets a lease of, or operates by contract or through ownership of stock; and then after buying it to pay for it by issuing its own stock, and then to hold the corporations it buys and their franchises and use them as the original grantees might. I claim that the Boston & Maine Railroad has now entered under the direction of its new regime upon a new era, and that new era commenced when its managers took a lease of the Eastern Railroad. Then they entered upon the business of stock watering, the effect of which every time is to put money into speculators' pockets and impose new burdens on the people.

Gentlemen, I mean by stock watering to say that they are taxing in some form or other the public twice for the value they put into the corporation. That is what I mean by stock watering—that they are taxing the public twice for what is invested in the corporation. The law passed in Maine to which I referred was approved March 16, 1887,— recent legislation, you see,— and as that law shows its purpose on its face, I want especially to call your attention to it. I hold in my hand the "Acts and Resolves of the Legislature of the State of Maine, for the year 1887." The act to which I refer is entitled "An act relating to the Boston & Maine Railroad," and is as follows:

"Section 1. The Boston & Maine Railroad is authorized to acquire by purchase the road, franchises and property of the Eastern Railroad Company; and after such acquisition and purchase, may also acquire by purchase the roads, franchises and properties of any railroad corporation whose roads are operated in Massachusetts or New Hampshire either by it or by said Eastern Railroad Company, under lease, contract, or through ownership of stock."

Then I skip some. I only read enough to show you what it is. "For the purpose of facilitating and effecting the purchase of the road, franchises and properties of the corporations herein authorized to be purchased, or any of them, the said Boston & Maine Railroad may purchase the stock, bonds, and other obligations, or any part thereof, of any of said corporations, and may from time to time"— here mark —"may from time to time increase its own capital stock to such an amount as may be agreed upon by itself and the selling corporation." That is the only limit on it. It may increase its stock to any amount that it may agree upon with the selling corporation. "May exchange its stock"— that is, the Boston & Maine may —"may exchange its stock, bonds, or notes for the stock, bonds, property, rights, and franchises, and in payment of the liabilities, of any of said purchased corporations." There, you see, gentlemen, the full length and breadth of what I stated the act to be. And then, to wind up with, "After the purchases herein authorized or any of them, said Boston & Maine Railroad shall have and enjoy all the rights, privileges, franchises and property theretofore had and enjoyed by the corporation whose road, franchises, and property it has purchased; and shall, in reference to said road, franchises, and property, be subject to its duties, debt, and liabilities." That is, it leaves them the owners of the corporation they buy, and the corporations in full operation precisely as they would have been if they were not purchased, and with the right to tax the public by virtue of the charters of those corporations to pay a dividend on the stock of those corporations and to pay the interest on the indebtedness of those corporations, and at the same time they have issued their own stock to pay for it, and they have the right to tax the public to pay dividends on that stock.

Now, gentlemen, if that is not doubling right straight over the road, if it is not taxing the public twice for the same thing, I would like to have you show me what is. I put it to any gentleman, attorney here for the Boston & Maine, to put this in any other light if he can.

Now, gentlemen, let me put another question to any attorney of the Boston & Maine. What in this world did the Boston & Maine want to get this act for? Why did they want to buy these roads of which they had a lease already, or which they controlled by reason of a contract or ownership of stock? Why did they want it? Can you imagine any other earthly reason except that they wanted to water up their stock? To issue more stock? Why, gentlemen, there isn't any earthly doubt about it. The whole object of it was to water up their own stock. They were already in control of those roads so far as any benefit or advantage to be derived from them was concerned. In that respect they were just as well off as they would be after they had bought those roads and paid therefor by an issue of their own stock.

Suppose, gentlemen, we should come in here and ask you to pass such an act as that in favor of the Concord Railroad; ask you to pass a law here authorizing the Concord Railroad to purchase the Boston, Concord & Montreal, and to purchase its indebtedness and to purchase its stock, bonds, and franchise, and pay for them by issuing the stock of the Concord Railroad; what a hue and cry you would have here, and justly, too. And is it any different because the Boston & Maine Railroad has done it, from what it would be if the Concord Railroad had done it? I would like those gentlemen to specify the difference. I claim, on the other hand, that the Concord road and the Boston, Concord & Montreal road never watered their stock, never tried to water it, and don't intend to try to water it. (Applause.) Every dollar of the stock in both those roads has been paid for, and it went for the construction and equipment of the roads,— every dollar in both roads. They have been content to receive the dividends the law allows them on the original stock as it has stood, and as it stands today. And if they are permitted to unite, they don't ask you to water their stock. They ask no dividends only upon the stock they have, and they don't ask

dividends upon the old stock they have, which has been paid for, until the road pays all the indebtedness and is able to pay such dividends. (Applause.)

The Concord road has owned the Manchester & North Weare Railroad for some 20 or 30 years, and has built the Hooksett Branch. The Hooksett Branch was necessarily built for public accommodation, and the North Weare road was really taken on an indebtedness by the Concord Railroad, subject to many incumbrances which they have since extinguished and paid off. It has never been a road that paid beyond the expenses and repairs until quite recently. It is paying, I think, a little something now. Properly enough, gentlemen, the Concord road might have asked for an enlargement of their capital stock in order to cover the expense of building the Hooksett Branch and the purchase of the North Weare Railroad. But they did not do it. And the public are enjoying the benefit of the Hooksett Branch and of the North Weare Railroad, and are not paying in any form one single cent for it. The Concord Railroad is taxing the public for nothing except for its original stock, which represents the original construction and equipment.

I claim that the Concord Railroad and the Boston, Concord & Montreal Railroad offer to unite on the terms in the Atherton bill in the interest of the people of New Hampshire. That bill means low fares and low freights. It means the development of the resources of the state, taking its lumber to market, and developing its water powers. It means additional facilities and better accommodations for our summer boarders, and will bring us a great many more of them.

Mr. Mellen says that it is no object to cut down fares for summer boarders, for this pleasure travel; because, he says, if a man has made up his mind to go up to New Hampshire it will not make any odds whether the fare is six cents a mile or two cents a mile, he will go all the same. Now, I take issue with Mr. Mellen on that. I have some knowledge and experience on that subject, and some observation the same as you all have and as much as Mr. Mellen has, and my experience, my observation is, that there is not a class of people that is more tender and more affected by low fares than these same pleasure travelers. They

haven't got anything else to do, and they will go for fun, and they will go anywhere where it will cost the least. That was my observation last winter in regard to the pleasure travel of this country. There were excursion trains to California, a very cheap fare; it did not cost much to go there. But there was nothing of the kind to Florida. If a man went down to Florida he had to pay regular full fare down and back, and as he always had to. The result of it was that all the pleasure travel, this floating stuff that rides on the cars, they all went to California last winter. (Laughter.) Now, Mr. Mellen comes in here and tells us that we are not going to get four times as many boarders and as many folks to come up to the White Mountains and in the vicinity of the mountains when we don't charge them but two cents a mile as we do when we charge five. I think I know about that, and so I think you do. Probably I may have to refer to some other things Mr. Mellen said. I claim that every man who is a friend of New Hampshire is a friend of the Atherton bill—that is, if he understands it. (Applause.) So far as the mere pecuniary interest, the dollars and cents, are concerned, the Concord Railroad stockholders are not helped by the Atherton bill. They could sell out to this hungry crowd of monopolists and speculators at their own figures. (Laughter and applause.) But instead of that the Concord Railroad stands upon its integrity and tenders its road and all its resources and its credit to the state in this bill, to be used in building up towns in the heart of the state, and building new railroads and extending facilities into the primeval forests of Coös and of eastern Grafton. I have no doubt where the people are, where they must be, in this controversy. But we are met here by all manner of statement from the Boston & Maine. They tell us that our talk is buncombe and that talk is cheap, and that we are making pretensions in favor of the state that don't mean anything more than their own cheap talk does. (Laughter.) They charge illiberality on the Concord Railroad, and that it has a surplus that belongs to the state. Their effort seems to be to excite such a prejudice against the Concord Railroad that you will refuse to take it for the benefit of the state and give it away to these hungry speculators. (Applause.)

Now, let us look at the state of things a little,— look at the facts and the figures. They say we are stock-waterers, too. That is another charge they make. Let us see who the stock-waterers are. Which of these railroads maintains its capital in its original integrity and solidity, and which has watered it up? Let us have a little business about this. (Laughter.)

These charges of illegality against the Concord Railroad of an illegal surplus, and that they have not any terminals, they have made over and over again here. Well, now, gentlemen, as this discussion goes along I want to have you remember, and above all things bear in mind, what the material question is here, to wit, Will you take this rich property, this Concord Railroad for the state, or will you give it up to speculators? That is the question. Let us keep that before our eyes all the time. Well, now, in the first place it is charged that the Concord Railroad has been illiberal about passes. It is claimed that they have the reputation for being illiberal. Now, if they have such a reputation, who is responsible? From 1873 to 1884 this road was in the hands of the Philistines. Why, the managers of the Boston, Concord & Montreal Railroad and of the Northern Railroad put their heads together and bought up stock enough and got men enough who owned stock to go in and elect two directors of the Northern road and two directors of the Boston, Concord & Montreal road, and they ruled the Concord road from 1873 to 1884. And it was only by the court interfering with this illegal operation and unhorsing them, it was only in that way that the Concord road got the shackles off from them as they did in the annual stockholders' meeting of 1884. And they had a big fight over it. They came on with their battalions, with their stock, Sherburne, Sulloway, and Todd, with the stock of the Northern Railroad to vote, notwithstanding the opinion of the court had already been rendered to the effect that it was illegal for them to do so. It was only by the injunction of the court served on them forbidding their voting that stock that they were withheld from voting it; and of course it unhorsed them. And the Concord road threw off the shackles and elected a proper board that represented the Concord road.

Ever since the Concord Railroad came into the hands of its

stockholders proper in 1884, the men who were then defeated — Sherburne, that man who is now an exile beyond the seas, the man who lost a hundred thousand dollars so strangely, Mr. Sherburne, the president of the Northern road and his associates and sympathizers, the Boston & Lowell Railroad, Mr. Mellen and Mr. Morey, and the Boston & Maine Railroad since the lease they took of the Boston & Lowell (they were pretty good friends of the Concord road up to that time, the Boston & Maine were) — since they took that lease of the Boston & Lowell have all united and been very industrious in circulating the information to everybody that the Concord Railroad is swinish, pinching, stingy, old fogyish, and always was; won't give any passes; that the superintendent, Mr. Chamberlin, is not a Chesterfield in his manners, is not a man of polished manners, and he snubs folks when they ask for favors. (Laughter.)

Well, now, gentlemen, let me ask, Is that any reason, this old fogyism and this having a wicked superintendent,— is that any reason why you should take away from the people this fine property and give it to speculators? I want to know if that is any reason why you should do it? Give it to speculators who have not either plowed or sowed to get it? Who have no claim, right, or title to it? Is it any reason why you should refuse to take this property for the use of the state, tendered to you in the Atherton bill?

The next charge of this hungry crowd, that are hungering to swallow up the Concord road, is that the Concord road has a surplus that belongs to the state. Now if that is so, which I deny in any sense — but suppose that it were so — is that any reason why you should not take the whole of the Concord Railroad for the use of the state, because a part of it already belongs to the state? or any reason why you should give the state's property and the corporation's property, the whole concern, away to speculators? A moment's sober consideration demonstrates the absurdity of this being an argument against the Atherton bill, Now what is there to this assertion that the Concord Railroad has a surplus? Mr. Aldrich says that the Concord road has got a surplus of two millions. What does he mean? He did not tell us how he makes out that surplus. I don't know of any

railroad that has got a surplus proper, what I understand by a surplus, except the Northern Railroad.

I know that the Northern road pinched out of their stockholders, and did not give them dividends when they ought to, enough so they got saved up there under the administration of Sherburne and his associates, and have it saved up there now, somewhere, a million and a half of dollars; and they are doing a pretty nice kind of banking business with it. When the directors or any of them want to speculate a little in stocks, they just go to their bank and take the money out and speculate. Well, I call that a surplus. But there is nothing of that kind in the Concord Railroad. And if they mean by surplus that the property of the Concord Railroad is worth two millions or more — if that is what Mr. Aldrich means that the Concord road is worth today, take all its property, that it is worth today two millions more than the amount of its original capital stock and its original equipment for which the stock was issued, which is a million and a half dollars — I am inclined to think that is true. But is that a surplus that belongs to the state? If so, where does the state get its right to take it any more than to use it as it is now using it? And today they are using it. Today the state is using it, and is not paying a single cent for it. All that the Concord road is now taxing the public for is just its legal dividend on its original stock of a million and a half dollars. It don't owe a cent; it is paying no interest to anybody; and the surplus, what Mr. Aldrich calls the surplus and belonging to the state, which the road is worth more than the million and a half of dollars, the state is using today. Mr. Eastman came here and gave the particulars somewhat as to what this surplus is,— that is, it is the North Weare Railroad, the Hooksett Branch, the Concord depot down here, I suppose it is the depot down at Manchester that is going to be when it is built, and the iron bridges; that they are all surplus, because I suppose they might have got along without the North Weare Railroad, and they might have got along without the Concord depot, and because that all these things have been added to the road since the time when its original capital stock was fixed. But, gentlemen, you see that the result of it is, that they have been purchased and paid for out of the earnings,

no debt contracted for them, and the capacity of the road for taxing the public for dividends being limited barely to its capital stock, the public is getting the use of all this surplus in the most effective form that it possibly can without paying one single cent for it.

Why, Mr. Mellen says that the Concord Railroad is earning 20 or 30 per cent. Well, so it is earning that according to his way of bookkeeping. He charges every new engine that is bought to take the place of an old one, and every old depot that is built over, and every new side track that is laid, to the construction account, to the permanent indebtedness of the road, and he issues the bonds of the road to pay for it. According to the bookkeeping of the Concord Railroad they pay as they go. When they build a depot they pay for it, when they build a bridge they pay for it, and have done so ever since the original construction account was closed. When they have bought a new engine they have paid for it without charging it to the construction account. But, of course, if they should charge every depot they build and every engine they buy to the construction account so they would pay 20 or 30 per cent., they would, instead of being clear of debt today, have a debt of ten millions after the same fashion that the Boston & Lowell have got it. (Applause.)

Why, gentlemen, this Concord Railroad is a bonanza. It is a bright and shining star of the first magnitude among all the railroads in this country. There is not another one like it. They started it in the very beginning. The men that started the Concord Railroad started it on Doctor Franklin's maxim of "pay as you go." They never charged to the construction account anything after they closed the original construction account in 1848 — there has never been a charge made to construction. There never has been an increase of their capital stock either by adding to their dividend stock or by charging to permanent indebtedness. They have paid for everything as they went along. The result of it is that they have got the best railroad in this country; and they have confessedly during all this time run their road for cheaper fares and cheaper freights than any other railroad in New England, and today they don't

owe a dollar. The Boston & Lowell have acted on a different plan. They chartered their road originally at two million dollars, and they went along very well for a long period of time; but they took at last to charging to construction and to enlarging their stock, and now today they have stock and indebtedness, instead of two million, fourteen million, and are so blowed up and bloated that they could not stand alone any longer, and they had to go and lease themselves. (Applause.)

Why, gentlemen, you have had experience in business. Let a couple of farmers start with a hundred acres of land side by side. Let one of them go on the maxim, "Pay as you go," and let the other fellow run into debt as he goes, and what is the result? You have seen that sort of thing done over and over again. It has invariably this result: that the fellow that gets things charged to permanent indebtedness, and charges to his construction account and gives his own note or his bond, why, when ten or fifteen years run by, his farm goes on a mortgage; and the other man, who pays as he goes, is around independent, hands in his pockets, and has got money to let. And it is just the same with railroading. When you get a true principle, it applies in one sort of business just the same as it does in another sort of business. And if you have got an honest business that has honest results, and you adopt the maxim of pay as you go, success is certain. On the other hand, if you adopt the policy of the Boston & Lowell Railroad, why you will come out as the Boston & Lowell has; and I have more to say about that, also, by and by.

Now, if there really is anything down there in the Concord Railroad that belongs to the state why don't some fellow start up and go and take it in behalf of the state? There the books are. It is pretty certain evidence that there has not been any stealing in that concern, the fact that they have got the property to show. Generally, where a concern is gutted and everything of value is taken out of it, it has a pretty rickety-rackety look to it on the outside and inside too. But where things are cleaned up and everything is saved you see things looking just about as they do on the Concord Railroad today. No debts — nothing. Where is the wrong here? What does Mr. Aldrich's charge

amount to when he asserts that the Concord Railroad has a surplus? And what does it amount to when Mr. Mellen says that they earn 20 or 30 per cent.? Why, it amounts to just this: Mr. Aldrich says, in effect, that you are doing a great wrong because you let the people have the use of two thirds of the property you have got, and you don't charge them a cent for it. You are doing them a great wrong because you don't get anything out of them for it. If we had it, if the Boston & Maine had it, we would water up that stock so that the public would pay for every cent they have. (Laughter and applause.)

Well, what about Mr. Mellen's charge as to the 20 or 30 per cent.? Why, it amounts to this — that you pay for everything as you go along. If you build a bridge and pay for it, you don't charge it to construction. If you let me in there and let me keep the books, I would pay you 30 per cent. very quickly. When I build a depot, I would charge it to construction. I would do as I do down on the Boston & Lowell road. That is the way I do down there. Well, gentlemen, don't you think that these men must be pretty hard up, these stock-waterers, to come all the way up here from Massachusetts to find fault with the Concord Railroad on this account? It seems to me I never heard of such a thing before. Here is a public corporation, created to serve the public, and under obligations to serve the public all right at the lowest rates practicable, seeking only reasonable compensation from them. Why, you furnish the public with two thirds of all you get, and you don't charge them a cent for it, and you must be stealing. You cannot be honest. There is something wrong. So there is something wrong if the Boston & Lowell system is right; if it is right to charge your debts and charge your expenses to permanent indebtedness, and to divide your earnings among your stockholders. If that is the right kind of railroading, then the Concord railroading is wrong. But I maintain that the Concord Railroad mode is right, to pay as you go; and I maintain that it is dishonest to pay a dividend to stockholders without earnings enough to pay your expenses, and then to charge a part of your expenses over to permanent indebtedness, to the construction account. (Applause.)

There has been a great deal of slurring about this new depot

down here at Concord; that it was a wicked thing to have so much of a depot. I don't know how you look at it, but it seems to me that here is a structure for all time; it is going down to our posterity; generations and generations yet unborn are going to look upon that depot, are going to be accommodated by it precisely as you are accommodated. And I think it was economy, and of the rarest kind, the best kind of economy, when they were about it, to erect a depot which would stay there and be a monument for future generations to look at; and they can look back a hundred years hence on the present generation as being a very respectable generation of people to have erected so good a depot as that. It is a public building. You New Hampshire men have just as good a right to go down there and look at that depot as your property, as public property, as the property of New Hampshire, and take pride, feel a surge of honest state pride as you look at it, just as you do when you look at this building in which we are now. That building was built and was perfected, and the improvements now going on have been devised, by this same board of directors that was elected in 1884, and about whom Mr. Sherburne and his associates, and the Boston & Lowell and Mr. Morey, and Mr. Mellen, and the Boston & Maine since they got the lease of the Boston & Lowell have been so busy in circulating the information as to their old fogyish habits. And I don't know whether they particularly characterized that depot as a piece of old fogyism or not, but probably. Well, gentlemen, I cannot stop to refer to these things. We have had every sort of story about the Concord Railroad. It seems that they have not committed all the sins; the Boston & Lowell have piled their own sins on to them. For instance, they have been clamoring about the great abuse done the men who own the stone quarries at Concord; that the Concord Railroad have pinched the souls out of them, and would not carry any of their stone to market. And it turns out as a matter of fact that the Concord Railroad has no control whatever over that business; that the whole business and whole responsibility for any outrage that may have been done there rests upon the Boston & Lowell, because that freight is put aboard the cars on the Claremont road, which is run by the Boston & Lowell.

Then there are other things. My Brother Briggs has traveled all over the shores of time to hunt up something with which he could smirch the Concord Railroad. One thing, he asks pretty derisively—if the Concord Railroad ever aided any poor road? Why, they are awful stingy fellows. Now, on that score, they certainly have taken the North Weare road. That certainly was poor enough. They took charge of it and made a pretty decent road of it and run it for the accommodation of the people, and they have not charged them a cent for it. Then, again, when the Portsmouth road was built they contributed largely to its building — I think fifty or a hundred thousand dollars. When the Suncook road was built they contributed there. When the Sugar River Railroad was built, which I believe is a part of the Concord & Claremont, they gave fifty thousand dollars, with the authority of the state. That don't look so very bad. Then he tells about tearing up the rails over on the North Weare road on Sunday. I believe that was a freak of one man only. As to the tearing up of the rails, he had a perfect right to do it. An act of the Legislature had been passed authorizing it to be done. The fact that he went over on Sunday and did it, I never approved of that myself. (Laughter.) That was a good while ago, and I don't think honestly, gentlemen, that you ought to lay that up against the Concord Railroad.

Then he goes at great length into the act of 1867 and the litigation which the Boston & Maine Railroad was at the bottom of. And then he takes up the contract of 1865. Now all that was a great while ago; and, of course, on all such questions there are two sides to every one of them. Why, I could read to the committee something here from what Mr. Quincy says about the Boston & Maine during this time. This is the annual report of the directors of the Boston, Concord & Montreal Railroad for the year 1859. I will read only a little sketch here which will show what he thinks of the Boston & Maine. He is complaining about them. He says that the "Boston & Maine is a rich and powerful corporation." This was a great while ago. I suppose they had money then; if they had saved it and had not watered their stock, they would have had more solid business than they have now. "The Boston & Maine is a rich and powerful cor-

poration, making handsome dividends and having a large surplus. More than half of its road being within the limits of this state, making combinations with roads lying entirely within the state of Massachusetts,— with the exception of the Nashua & Lowell, whose road is but eight miles in our state,— thereby controlling both avenues to Boston, and the effect of which is to crush our road, *arrogantly affirming that it is not subject to the laws of New Hampshire, and consequently we can have no redress.*"

This is where the Boston & Maine Railroad was in 1859, according to Mr. Josiah Quincy. I take it that there are a great many men that have not forgotten him—one of the sharpest and brightest men that ever lived in New Hampshire, a man who knew what he was talking about as well as any other man. Josiah Quincy signs this report. John T. Coffin, another good man, John E. Lyon, another big man, Alexander H. Tilton, a good old man, John L. Rix, and J. R. Pitman, John E. Lyon's faithful lieutenant who always stood by him—well these men all subscribed that, and say that the Boston & Maine at that day was arrogantly affirming that it was not subject to the laws of New Hampshire, and defying them, notwithstanding their outrages, to help themselves if they could. Well, I shall have something more to say by and by about the Boston & Maine not being responsible, and being a foreign corporation. They made a great how-do-you-do; but I will say right here now, that this is the first time in the history of that corporation when they have come here and admitted that they were a domestic and were not a foreign corporation. I believe my Brother Marston over here is one of the men that pounded that into them. (Laughter and applause.)

Well, now, about this contract of 1865. Why, gentlemen, that contract, whatever there might have been to it and whatever just grounds they had of complaint, was pronounced by the court to be void, and the parties to it not under obligation to abide by it any longer than they chose. Either party could revoke it at its own option. After that opinion was delivered, I think somewhere about 1869, the roads all went on contentedly and peaceably under that same contract, settling their accounts

in conformity to it, up to 1873. And in 1873 these upper roads, the Boston, Concord & Montreal and the Northern road, took possession of the Concord Railroad and ruled it for eleven years. And they still went on—these very men who according to the account of Brother Briggs were suffering so enormously by reason of that contract—went on voluntarily under that contract from 1873 up to 1877. And then it was abrogated; and not by the action of the Concord Railroad or the upper railroads, but by the action of the Boston & Lowell itself, who gave notice that they abrogated the contract. And a new contract was made.

Now, gentlemen, it is plain enough that whatever may be said on that score, and whatever claim was made by the upper roads that there was no solidity in it, that they never dared when the upper roads came into the possession of the Concord road, to pay a cent on it, and they never dared to bring a suit on it; and the thing is more than twenty years old, and no suit has ever been brought upon it and no claim ever made upon it; and the very contract out of which it grew has been abrogated voluntarily by all the parties. Why, gentlemen, it was a big thing to scream about for three or four long hours, and read old reports about it, as my Brother Briggs did. They must have been hard up for timber to talk about, it seems to me.

There is another claim that has been made here, as baseless and groundless as any dream or vision that ever was started in this world. And it has been harped upon all along. And that is, that the doings of the Boston & Lowell Railroad on the Boston, Concord & Montreal and on the Northern road illustrate the beneficial effects of the Colby bill; that the Boston & Lowell by reducing fares have developed and built up new business; that the Boston & Lowell have corrected the abuses of Mr. Lyon and Mr. Dodge, and have made great improvements on Mr. Lyon and Mr. Dodge. And then, in the next place, they say that the Boston & Lowell, having thus been tried and having done so well, it follows that the Boston & Maine will do well also. Now it seems to me that there never was such a tissue of false assumptions. In the first place, they claim that the doings of the Boston & Lowell Railroad on the Boston, Concord &

Montreal and on the Northern illustrate the beneficent effects of the Colby bill. The Boston & Lowell did not get the Northern road, they did not get the Boston, Concord & Montreal road, by virtue of the Colby bill, but they got them *in spite of the Colby bill.* The Colby bill was not designed for them. On the contrary, it was designed by the framers of the Colby bill that the Boston & Lowell should not be allowed to come into the state at all. And everybody that is at all cognizant of the doings of those times knows it just as well as I know it. Why, gentlemen, it is in the record of the Journal; the application that was made by the Boston & Lowell at that session, to the same railroad committee that reported the Colby bill, to confirm the lease of the Nashua & Lowell to the Boston & Lowell, was denied, and that committee, among other reasons, particularly recited one reason why they would not confirm it. That reason was this — that if they confirmed that lease, it would give the Boston & Lowell Railroad a standing in New Hampshire and the right to lease its railroads, which they, the committee, said they had intended to guard carefully against, in framing the Colby bill, or words to that effect. It is a well known fact that the Boston & Lowell Railroad was here with able counsel, Colonel George, from the beginning to the end of the session of 1883, fighting the Colby bill with all the means in their power.

Well, then, the next point is that the Boston & Lowell, by reducing fares, have developed and built up new business on the Boston, Concord & Montreal road. Now, gentlemen, I claim to know something about what happens up on the Boston, Concord & Montreal road, for I live up there; and I know the gentlemen who are members from that section of the state know about things up there as well as I do, and they know that whatever new business has ever been started up there was started by Mr. Lyon and Mr. Dodge. Since the Boston & Lowell road went up there, there has been no new business started to my knowledge and I don't know of any new hotel that has been built on any of the locations where there are summer resorts, like Bethlehem and places of that character. There may have been one or two built out on Sugar Hill, but if so they were projected before ever the Boston & Lowell got up there, and it was by no man-

ner of means because they went there that they were built. Why the business in Plymouth has fallen off, and I don't know of a solitary place up there, I don't know of a single lumber concern, or of a single business enterprise of any sort, that has been started through the Boston & Lowell Railroad. It is a perfect myth, this declaration that has been made and harped on. You have seen Mr. Ira Whitcher on the stand here, and you have seen Mr. Brown. They are solid men of that section of the country. Probably either one of them does more freighting in one month than all of those who have been here on the stand on the part of the Boston & Maine do in a whole year. This talk of the wonderfully beneficent work that the Boston & Lowell has done up on the line of that road is "all in your eye." (Laughter.) This talk that they have made improvements on the road Mr. Dodge and Mr. Lyon built, or the idea that if Mr. Lyon had lived up to this time there would not be a better state of things all through that section than there is now, is the most unjust and idle thing to say in this world. People of Grafton and Coös Counties who can ever forget John E. Lyon and Joseph A. Dodge, will forget the mother who bore them and the father who nurtured and brought them up to manhood. (Applause.) They exercised a paternal jurisdiction over that whole country. If a man wanted to start in business, to build a sawmill or anything of that kind, they would carry his iron and necessary machinery for him without any charge. If a man wanted to start a boarding house, he could get his furniture carried up there for half charge or no charge at all. And so they were at work all the time stimulating new enterprises, building up new hotels, new boarding houses, and new sawmills, and new business of various sorts and kinds, even lending parties money to help them along. And yet they talk about this Boston & Lowell Railroad superseding these men and making an improvement on them, and that they found that their charges were outrageous and that they cut them down. Why, gentlemen, they may nominally have cut down their tariff. That is so; but, as I say, Mr. Dodge and Mr. Lyon exercised a paternal oversight over the people up there; they saw what the people needed and what they had got to have, and they did it for

them. Talk with Mr. Ira Whitcher and see what he thinks about the Boston & Lowell, and not with these cheap fellows whom they have bought with passes, and who are yelling and making such a noise. Their talk isn't of any account. Talk with the solid men, and see what they will tell you about the Boston & Lowell's great work. It is all nonsense, and it is "all in your eye." (Laughter.) There never was anything more preposterous. It is mere gas. Of course they had to cut down their fares somewhat, but it seems, according to the account, that they cut them down very much as the Boston & Maine issued their mileage tickets — when they cut down the fare per mile they made more miles. (Laughter). And when the Boston & Lowell cut down the freight on a thousand feet of lumber they made a less number of feet a thousand. (Laughter.)

Well, now they assume because the Boston & Lowell did well up there, when they had a club right over their heads — they knew when they went up there that it was in violation of law; nobody understood it any better than the Boston & Lowell managers; and they knew when a suit was brought contesting the legality of their lease, their only chance of staying there was by worming themselves in some way or other into the good graces of the people — that the Boston & Maine will do well. But you know,

"When the devil was sick, the devil a saint would be,
But when the devil got well, the devil a saint was he."

Now, while the Boston & Lowell were up there with a club right over their heads, they were saints, probably, as much as they could be. But when the Boston & Lowell, or the Boston & Maine gets firmly in the saddle up there, why, "when the devil got well, the devil a saint was he," and I think a devil of a saint either one of them would be then. (Laughter.) It is perfectly idle to say that because the Boston & Lowell ran the road well, supposing they did run it well during the time and under the circumstances when they ran it, therefore the Boston & Maine will run it well when they are firm and sure in the saddle.

Now let us look a little at Mr. Morey of the Boston & Lowell Railroad, and look a little at his bookkeeping and what he has

done. Because there is not any doubt, gentlemen, about the way and manner in which the books of the Boston & Lowell Railroad Company have been kept, and they have been kept on this principle — to pay a dividend anyhow (I mean since Mr. Morey came into the management, since 1883) pay a dividend anyhow, and then pay the expenses out of what earnings remain, or, if there is not enough remaining to pay them out of the earnings, charge the balance of the expenses to the construction account.

Well, now, it is pretty hard, of course, to track out railroad accounts, but here is a very good and a very certain test. On pages 10 and 11, and then on pages 217 and 218 of their report for 1886, the railroad commissioners of Masaschusetts go into an analyzation, and they show, according to the reports of the different roads in Massachusetts, how much it costs to run a train-mile. That is, they take the whole number of train-miles run on the entire road, and they take the amount paid for expenses and divide it by the number of train-miles, and that gives the cost per train-mile. Well, now, taking the Boston & Lowell, we find the cost per train-mile on that road is sixty-five cents, whereas for all the other railroads of Massachusetts the charge varies from fifteen to thirty cents more per train-mile. You take the lowest one of them, and take the difference per train-mile between the sixty-five cents of the Boston & Lowell and what the lowest one of them charges per train-mile — take the difference, and it would amount to a sum much more than the dividend which the Boston & Lowell pays. This shows that if they had paid all their expenses out of the earnings, it would have consumed all their earnings, and they would not have had one cent left to pay out in dividends.

As collateral to that is the fact that in the years previous to Mr. Morey's management, the Boston & Lowell Railroad did not pay a dividend at all. There were years in which they did not pay any dividend, and then they paid a dividend of one or two per cent.; and I think for the ten years preceding Mr. Morey's management they never, in any one year, paid more than four per cent., and there were years and years when they did not pay any dividends at all. But the cost of running the road was then the same per train-mile, or about the same, as on the other

roads. It is perfectly idle to say that the Boston & Lowell road ran their trains cheaper after 1883, because they then ran the roads up here in New Hampshire. Of course, they could not run a train-mile in New Hampshire, over the steep grades here cheaper than they could in Massachusetts on the level grades there. It is perfectly idle to say they could, for it could not be done.

Then in connection with that is the fact that from 1883 down to the present time, the permanent indebtedness and the stock of the road was being added to. The stock of the Boston & Lowell road since 1883 has been increased about $2,000,000, and the permanent indebtedness a like amount. Indeed, the total indebtedness of the road from 1883 up to the present time has been increased about $6,000,000. Their real capital has been increased from $8,000,000 up to $14,000,000. To be sure, Mr. Mellen attempts to explain that by the wild-cat roads that they bought, but that does not account for it all, even if they paid for them at the prices that he names.

The fact that just as soon as Mr. Morey gets the road there is a change in the cost of running a train-mile, and there is a change in the addition to the permanent indebtedness from what existed before, shows pretty plainly that what I charged upon him, as to a distinction between his mode of keeping accounts and the mode of keeping accounts on the Concord road, is exactly true. And if you would apply his method of bookkeeping to the Concord road — Mr. Mellen did not explain how the Concord road earned twenty or thirty per cent., but I can tell you — apply his method of bookkeeping and charge every new engine, and every bridge that is rebuilt, to construction, then you would have your twenty or thirty per cent. I want to have you understand, gentlemen, the distinct modes of bookkeeping employed by the Boston & Lowell Railroad and by the Concord Railroad. The Boston & Lowell road first pays its dividend and then pays what expenses it can out of the balance of the earnings, and then, if that don't pay all the expenses, charges the balance of the expenses right over to construction. On the Concord road, from the beginning, the law was made—and they have not dared to depart from it through all the dynasties that have ruled over

that corporation; even during the time that it was in the hands of the Philistines while the Boston, Concord & Montreal and the Northern road ruled it, they did not dare to depart from that fundamental law—Pay as you go. And they always have paid, and not a cent of indebtedness has ever been incurred by the Concord road.

But I will show you, gentlemen, how the thing might very easily have been worked. There was a period of time, from 1850 up to 1867, when the Concord road did not pay ten per cent. dividends. The dividends got down as low as five per cent. in some of the years, and six per cent., and even the stock of the Concord road, the par being fifty dollars, dropped down to thirty or forty dollars per share. But during all that time the Concord road paid their bills. They did not charge anything to construction. If there was not money enough to pay a ten per cent. dividend, they simply paid what rate they could. Now, gentlemen, suppose that in 1850, which was the first year when they fell short of a ten per cent. dividend, instead of charging nothing to construction, they had charged all their new buildings and bridges and repairs to permanent indebtedness, charged it to the construction account, and paid their ten per cent. dividends, and so on the next year and the next year; they would have paid their ten per cent. every year up to now, and there would have been what the Lowell road has today, a permanent indebtedness against the Concord road of six, eight or ten millions of dollars. That is what the Concord road would have had, what the Lowell road has, and what the Boston & Maine has against it today, a permanent indebtedness of $9,000,000. There are three millions and a half of bonds standing against the Boston & Maine Railroad today, that pay seven per cent. interest. I don't know where those bonds are, but I imagine they are somewhere near the government, close by the government of the corporation. (Applause and laughter.)

Well, Mr. Mellen gives us another pretty good thing — I don't know where he got it — but he says, why, no matter if you put all the railroads in the country into the hands of one man, or into the hands of one corporation, that would not blot out competition. Competition will exist all the same, he says. For, he

says, there are potatoes raised down in Maine and up here in New Hampshire, and they are just as truly competitors as if there were forty railroads, because a railroad from northern New Hampshire has got to carry the potatoes down to Boston at a rate which will enable the farmer who raises them to sell them in the Boston market at a profit in competition with the potatoes from Maine, or he will not raise them. Well, gentlemen, I never supposed we ever could be deprived of that sort of competition. I have always supposed I should have the privilege of going afoot if I wanted to, rather than ride and pay the fare. I have supposed we would have that competition anyhow! and I have supposed that I had the glorious privilege of saying that I won't raise a bushel of anything, nor manufacture any lumber, and send it to market unless I have a mind to. And it seems, when you come to skin it down, that Mr. Mellen's competition is that you shall have the privilege of being skinned right down to going afoot; that you shall have the privilege of going afoot and not sending anything to market, provided you had rather do that and do no business at all. But that is what I call no competition whatever. There is no such thing as competition, unless the man who has got the lumber, or who has got anything which he wants to send to market, has two ways in which he can send it. This competition between the man and the carrier, so he can pay his fare or go afoot, or so he can pay his freight or not send anything, is a glorious privilege which I believe there is not power enough this side of God Almighty to deprive men of.

Perhaps I will say a word here concerning this talk that has been made to the effect that the Concord Railroad is concealing money, and that the Concord Railroad has property which belongs to the state. There is nothing there that the state has any right to take excepting under the charter; and under the charter, the state has the right to take the property of the corporation at any time it pleases, by paying to the corporation what is necesasry to pay them in order to make up ten per cent. dividends from the commencement of the operation of the road, and by paying the original expenditure. Well, if the state chooses to do that, it has the right to do it. But the question

then comes, how much will the state have to pay? That has been carefully computed. It was computed by the attorney-general, Mr. Barnard, and it has been computed over and over again. By computing it at simple interest, it amounts to more than $4,000,000; computed at annual interest it amounts to considerably over $5,000,000; and computed at compound interest, which Mr. Barnard says he thinks is the interest which should be made use of, it amounts to about $6,000,000. There is no doubt about it, that if the state of New Hampshire wants to take the Concord road, and pay up the back dividends to the stockholders, it has a right to do it; and that is all the right that the state has in the Concord Railroad, aside from the public right that everybody has in all corporations.

Then there is another thing which has been spoken of somewhat, and that is in relation to the Canadian Pacific. Mr. Mellen thinks that he knows all about that institution, that it is a political institution, and that it would be perfectly suicidal for the Canadian Pacific to think of controlling, or having anything to do in the way of controlling, directly or indirectly, any railroad outside of the Dominion of Canada. Well, now, anybody who knows the nature of the Canadian government knows that the Canadian Pacific is a government road, and largely under the patronage of the Canadian government and of the home government, and that it is gotten up for the express purpose of getting all the transcontinental business between the two oceans; and for anybody to say that it will not improve the first good opportunity to get a port on this side of the continent, upon the Atlantic shore, is perfectly idle. I find here a despatch to the *Boston Journal* from Washington, under date of July 15, to this effect:

"Washington, July 15.—If the advantage which the Canadian Pacific Railway Company has received by the order from the Treasury Department which authorizes it to transport goods in bond from San Francisco to Port Moody, the western terminus of the Canadian Pacific, is as great as those who have advocated the interests of the road believe it to be, our transcontinental lines will find in the Canadian road a sharp competitor. That road has failed to secure a monopoly of the transcontinental freight from India across to Canada, the British government having de-

cided that a part of that merchandise shall be sent by steamer; and this new advantage secured in the United States will be especially welcomed.

"The Treasury order, as the friends of the Canadian Pacific interpret it, practically makes San Francisco the terminus of that road, so far as the United States is concerned, while any point or all points on the Atlantic coast may be selected for the eastern terminus. If this interpretation of the privileges conferred by this order shall prove to be correct, the Canadian Pacific will be given a great advantage; and if, in addition, that road shall succeed in securing a direct connection to New York and Boston, which will be under its own control, it will be firmly established as a rival to all American transcontinental lines. But the transcontinental lines may place themselves in a position to compete even under these conditions, for it has been stated here by railroad men of prominence that the transcontinental roads will construe the inter-state commerce law as Judge Deady has constructed it, and will decide that the water competition from the Pacific coast creates the dissimilar conditions which constitute the exception under the act."

So you see that the friends of the Canadian Pacific are claiming that they have already become established in San Francisco, and that it only remains for them to get a port on this side. They have an order from the treasury department of the United States by which they can take goods in bond coming from India and carry them right across the continent, and reship them to Europe; and they are entering into competition with the three great transcontinental lines through the United States, to wit, the Northern Pacific, the Union Pacific, and the Southern Pacific. And, in fact, this gentleman, Mr. Page of the belting works — you recollect they made so much fuss about him; the Boston & Maine folks are responsible for what he says — had a good deal to say about the Canadian Pacific, and about the arrangements that were made, and how desirable it was to have the Boston & Maine get possession of all these roads, so as to have a continuous transcontinental line, connecting with the Canadian Pacific and on across the continent. His sympathies seemed to be altogether with the Canadian Pacific as against all the other transcontinental lines. It is in the air, gentlemen, and there isn't any doubt about it, that the Boston & Maine and the Boston & Lowell are in collusion with the Canadian Pacific, that

they already have arrangements for business, and that as respects the future God only knows what may or what may not happen. And I think it is a pretty significant fact that Mr. VanHorn sends a letter down here for Mr. Mellen to read to this Legislature. Mr. Mellen says he don't know how he came to get it, he don't know how Mr. VanHorn, the vice-president of the Canadian Pacific Railroad, came to write it, but he did write it, and sent it down to Mr. Mellen for Mr. Mellen to read to the New Hampshire Legislature. Why did Mr. VanHorn do that? He was not asked to do it, so Mr. Mellen says. It shows he must have been watching the proceedings of this Legislature very closely, or he would not have known of any suggestions about the Canadian Pacific; and if he did know about the suggestions in regard to the Canadian Pacific and had no interest in them, why should he be writing this letter unasked? Why, unless he has an interest, unless there is a purpose of consolidation, or combination, or leasing, or getting control of some railroad here, is he so quick and so prompt to send a communication down to Mr. Mellen?

Well, then, another point. Mr. Aldrich says the Concord Railroad has no terminals; he says the Boston & Maine has got them all. This is not true, but if it were, what does the gentleman mean to intimate? What has he got to say why such a fact has anything to do with these bills? Does he mean to say that the Boston & Maine have got all the terminals in Boston, and they also have got the Boston & Lowell Railroad, and that they propose to shut off everything that comes down from the Concord road? It either means that or it means nothing. But if it means that, then we have the fact that railroads are public corporations and are bound to carry what comes on to them; and the Boston & Maine cannot refuse to take what comes from the Concord road except they deny their obligations to the public. And to do that they have got to ride over the Legislature of Massachusetts, the courts of Massachusetts, and the railroad commissioners of Massachusetts, and over the United States government and the United States railroad commissioners; and it is only when they override the law and all the tribunals of the country that they can refuse to take what is brought to them

from other roads and carry it safely over their road. If you pass this Hazen bill, perhaps the time will have come when they can go right on and override us; anyhow, it will give them a pretty good jog in that direction.

Mr. Aldrich gives us another pretty significant idea. He portrays the railroad doings and exploits of Commodore Vanderbilt as a specimen of what the management of the Boston & Maine in this proceeding purpose to do. Perhaps it will be worth our while to inquire a little as to the history of Commodore Vanderbilt and what he did. In 1853 he came into possession of several roads that make up the New York Central, and he was permitted then to put in a quantity of water, some eight or nine millions. In 1869 there was added to the Central road the Hudson River road, and then a grand watering took place of forty-five millions. Subsequently, in 1873, another watering took place by which forty millions of bonds were put on to those roads, making in all somewhere from seventy-five to one hundred millions of absolute water that Mr. Vanderbilt put into these roads, and which made the foundation of the great fortune which he died possessed of, and which was left to his son William H., who died a short time since leaving an estate which everybody says exceeded two hundred millions of dollars. Now, to be sure, when Mr. Vanderbilt put this water in, the Legislature required him to establish the fares at the rate of two cents a mile; but he went on to these roads, and he took all of the brass balls off the engines, he took off every superfluous ornament, he dismissed every supernumerary employe there was on the line of the road, he cut down the wages of the men he hired, and he made them all go upon the jump, and the effect of that was he paid seven or eight per cent. upon his watered stock. Now, gentlemen, if he had gone to work in the same way, and had not watered his stock, gone to work with the same economy, he could have made money enough to be as rich as any man ought to be in this country, and the fares and freights could have been cut down so he could have carried passengers for less than one cent per mile, instead of for two cents per mile. There is no earthy doubt about it, and perhaps he could have carried them for half a cent a mile.

Well, the managers of this fight here for the Boston & Maine propose to take Mr. Vanderbilt as their model man. What will they do when they get the Concord road and the Northern road and the Nashua & Lowell? What will they do with the Manchester & Lawrence? The first thing in imitation of Vanderbilt, which they won't forget to do, is the stock-watering. That is what they are here for. They will put in millions of water, according to the capacity of each road for taking water. They won't stand about doing all that Vanderbilt did. I don't know as to their taking the brass balls off from the engines — I hardly think they will do that. And as to the fares on the Boston, Concord & Montreal road, Mr. Mellen says, keep them up. He says, keep the fares up; if you want to cut down anything, cut down the freights, but keep your fares up so as to keep folks at home to trade, and not let them go abroad to do their trading.

Well, gentlemen, at this time the Boston & Maine Railroad managers and their associates are the most liberal people in the world. They issue passes, I suppose, *ad libitum* over the two thousand miles of the road they are in possession of according to Mr. Mellen, and especially over the Northern road and its branches, 175 miles, and the Boston, Concord & Montreal road, 200 miles, right here in the heart of New Hampshire. Now they are in possession of the Northern road, after the Northern Railroad Corporation has been ordered by the court to resume possession of that property, and they are in possession of the Boston, Concord & Montreal Railroad, without right after notice to quit, and after suit has been brought which they have delayed. If they had allowed this suit to have gone on to a final hearing in the courts in New Hampshire, they would have been out of the possession of this road before this time. There is no doubt about the result. The court has already decided the question with relation to the lease of the Northern road, and the lease of the Montreal road stands precisely the same, and in the courts of New Hampshire they would have been ordered out before this time. But they have transferred the case to the courts of the United States, and there it will have to stay for ten years, more or less, and if they get it up to Washington into the Supreme Court, it will have to lie there on the docket

for five years before it can be reached, the Supreme Court being that much behind.

May it please the committee, perhaps this will be as suitable a point as any for me to stop, if I am to have another evening.

(Adjourned to Thursday evening at 7.30.)

Mr. Chairman and Gentlemen:

I stopped rather abruptly last evening; and when I stopped I was speaking of the extraordinary condescension and the very obliging attitude which the Boston & Maine Railroad and its managers now occupy towards you and towards the people of New Hampshire — that they are running extra trains up and down the road, long trains, making a magnificent show. And it seems just as though they could not do enough for folks. And they seem to wish to impress upon you that if you will give them the legislation they ask and put them into possession of all the railroads of New Hampshire, that it will always be so. Mr. Mellen told us in a little speech that Mr. Furber said to him: "I want you to tell the folks up there in New Hampshire that I shall give them great improvements in the service; tell them I shall give them a service better than they ever dreamed of."

Well, gentlemen, I cannot think of anything that so aptly expresses the attitude of the Boston & Maine and their managers towards you and the people of New Hampshire, while they are trying to entice, wheedle, and coax you to give away to them the railroads and the people of New Hampshire, as the song of "The Spider and the Fly." The spider says to the fly, "I have the prettiest parlor that ever you did spy. Will you, will you, walk into my parlor, Mr. Fly?" Well, as the song goes, the fly accepted the invitation, and walked into the spider's parlor, and the spider ate him up. (Laughter.) The managers of the Boston & Maine Railroad have called to us in their most dulcet tones. They have put on their most winning ways. They are so warmly pressing us into their parlor. What do you think would happen if you should give up to them absolutely all your railroads and let them get firmly fixed in their permanent possession? All competition blotted out, everything

subject to their good pleasure, what do you think they would do? I believe they would serve us as the spider did the fly. I believe that if we walk into their parlor, they will literally eat us up. And I am brought to this conclusion, not merely on the general principle that when men or corporations think they get the absolute control of things, and that nobody can interfere with them and with their plans, then they become indifferent to what people want and merely consult their own caprices and selfish interests. But this corporation has got a reputation; its habits are known, and although it is a foreign corporation to all intents and purposes, it is not unknown to us. We have brought up some evidence from Massachusetts down where they live, down where they keep house. You will remember, gentlemen, the evidence from Mr. Morse, that Haverhill was not a competing point — the city of Haverhill with some twenty or thirty thousand inhabitants and a large business — and the only railroad they had to accommodate them was the Boston & Maine. And Mr. Morse told you of the grinding manner in which they were treated where there was no competition. And that is the way it will be all over the country if you submit and give them what they ask. They will treat the whole country as Mr. Morse testified they treated Haverhill. And when the people down there were pressed to the wall and could do nothing, they went to work, to build a railroad for themselves. And then this institution, this Boston & Maine, determined to hold them, grind them right down, to overrule, to head them off from accomplishing their purpose of building a road.

This Boston & Maine Railroad is no mere baby. It is more than fifty years old. It has got a reputation down in Massachusetts where it was born, and over in Rockingham and Strafford Counties in this state. When there is another corporation close by, another road you can ride on, according to the evidence and according to their reputation, they are very nice, humane, and accommodating. But when there is no competitor they put the knife right in; put the knife in clear up to the hilt.

Now, gentlemen, I warn you that it is unsafe to put a corporation that has got their reputation into the control of all the business of the country without any competition anywhere.

They can build up or tear down. They can make anybody rich or poor. They can drive anybody out of business. They can control the Legislature. They can control courts. They can plunder the people to any extent and put the booty in the pockets of their favorites. I don't care, suppose the present managers of the Boston & Maine are perfect gentlemen, suppose Mr. Furber is a perfect gentleman and his associates are all right; — men die; corporations never die. Mr. Furber and Mr. Jones and their associates, the managers of that corporation, will soon die. Somebody else will take their places who may be bad men, very likely to be; and certainly sooner or later there will be bad men in their places. But, gentlemen, when you know that Mr. Furber, the present head of the Boston & Maine, is a tyrant when he has got anybody in his grip and power, and when you know that that corporation, when there is no competition, is grinding, hard, and merciless, wouldn't it be extremely injudicious to place the whole interests of the state of New Hampshire absolutely at the pleasure and in the control of that corporation? Why, talk about Mr. Chamberlin, the superintendent of the Concord Railroad! According to the reputation of Mr. Furber and Mr. Chamberlin — I don't know Mr. Furber; I don't want to do him any injustice—but according to that reputation I speak of him; and I believe that Mr. Chamberlin could be kind of short and crusty; I think he could, if he set out to, snub a man pretty sharp; but for real downright ferocity that drives a man into his boots and sets him on the run for life, why Mr. Chamberlin is no more to be compared to Mr. Furber than a common ordinary pussy cat to a regular roaring Bengal tiger. (Laughter.)

Mr. Briggs undertook to say, that we, the friends of the Atherton bill, are going back upon the Colby bill. Not so. We say that Mr. Briggs is going back on the Colby bill; for everybody knows who knows the history of that bill and has read the literature and the speeches connected with that bill, knows that it was the absolute and positive purpose of that Legislature and of the framers of that bill to shut the Boston & Lowell absolutely out of New Hampshire. And Mr. Briggs' bill, the Hazen bill, provides directly and absolutely for the leasing, and special-

ly provides, section seven does, for the leasing of the Northern Railroad and the Boston, Concord & Montreal to the Boston & Lowell.

Now, gentlemen, what was intended to be settled by the Colby bill? This was intended as all the evidence shows, and to which no man who knows anything about it can make any denial — to create a system of railroads in the Merrimack Valley made up of the Concord Railroad and the Northern Railroad and the Boston, Concord & Montreal, and to create a system in the eastern part of the state made up of the Boston & Maine and the Eastern Railroads. I say this is proved; and all that is necessary for you to do to be satisfied upon that point — and I think there are a great many members of the present Legislature who were here in 1883, and they must remember that such was the uniform statement of all who advocated that bill — is for you to read the current literature of that session.

Now, it is said by the Boston & Maine Railroad here that the Concord road would not act, and refused to lease the Northern and the Boston, Concord & Montreal when applied to, and that these roads were obliged to go out of the state to get leased. Now, how are the facts about that? It has been shown here and been talked about, and definitely shown here, that after the passage of the Colby Bill and up to May, 1884, the Concord road was in no good situation to make a contract with either of the upper roads; that although a trustee was put in, and although two new members were put in, the evidence shows they entered into negotiations with the Northern road, and propositions were made, but no definite answer was made to the propositions. They offered four and a half per cent. on a sliding scale, which might be five per cent. on certain contingencies — four and a half per cent. absolutely — and got no answer either of acceptance or refusal. But the thing seemed to have been put off up to the annual meeting of the Concord Railroad in May, 1884. And on that occasion Mr. Sherburne and Mr. Sulloway and Mr. Todd went there in force. They went there with the shares that the Northern road owned in the Concord road, proposing to vote upon them. But they were stopped from voting upon them, and the result of the meeting was that they were defeated, and

the board was elected in accordance with the sentiment of the Concord stockholders proper. It was the intention of those gentlemen to make a board in the Concord Railroad after their own heart and in their own interests. If they had done that, if they had succeeded in that, if they had got a board there that suited them, they undoubtedly intended to lease the Northern road to the Concord road, and would have leased it. But failing in that they would not lease it. And although the committee appointed by the board of directors then chosen for the Concord Railroad, although they immediately went to the president, Mr. Sherburne of the Northern Railroad, and to Mr. Bell of the Boston, Concord & Montreal, they were told by Mr. Sherburne that they could not listen to any proposition, and were told by Mr. Bell that they should not listen to any unless the Northern road also was leased; that they had agreed to go together. Now, the facts were that Mr. Sherburne and Mr. Sulloway and Mr. Todd would not upon any terms, and you could not have got them to, lease to the Concord road, governed as it was by the directors which were chosen in May, 1884. You could no more have got them to lease the Northern road to the Concord road than you could catch a blue jay by putting salt on his tail.

Well, they leased to the Boston & Lowell, and next, proceedings were taken to set aside that lease. And pending those proceedings two of the directors in the Northern road, from some cause or other, entered into a treaty with the Concord Railroad directors that in case that lease was set aside they would lease the Northern road to the Concord road on the same terms that the Boston & Lowell had it. When that lease was set aside and they were applied to carry out this arrangement, why, they temporized along, and pretty soon it became apparent that a lease would be taken to the Boston & Maine or in the interest of the Boston & Maine; and they, the Concord road, began to make their offers, but you could not touch them then with a ten foot pole. Mr. Kimball went down there authorized to pay them six per cent. No, they would not listen to him, not a moment, but they went and leased their road, or agreed to lease it; and if you give them authority to, they will lease it no doubt, for these men are in the interest of the Boston & Maine and have

been all the time. They went and leased it, or agreed to lease it, for five per cent. for ten years and six per cent. afterward, a less sum than was offered them by the Concord road.

So, then, it is perfectly idle talk, it is perfectly without any truth whatever, that the Northern road was willing to lease to the Concord road, or would lease to it upon any terms so long as they could lease to anybody else, after the present directory was chosen. That is the truth about it and the fact about it.

Now, gentlemen, to go back a little. At the time when the Colby bill was passed the Boston & Maine coöperated with the Concord road in securing its passage. The Boston & Lowell road opposed it clear up and all through. They fought it from beginning to end. The Boston & Maine at that time was at war with the Boston & Lowell and at peace with the Concord Railroad, and remained so clear up to the time of the leasing of the Boston & Lowell and the buying up of the Manchester & Lawrence stock. Why, even two years ago, when it was expected there might be some onslaught on the Legislature of 1885, they were ready to coöperate and contribute, to aid the Concord road in resisting any effort that might be made by the Boston & Lowell to get a confirmation of their leases. That 18th section of the Colby bill, it has been intimated, was the authority under which the Boston & Lowell leased the Northern and the Boston, Concord & Montreal, and that it was put in there for their accommodation and to enable them to do so. The fact in regard to that is, that the 18th section was put into the bill before it was introduced; that is, it was the 17th section of the bill when it was introduced. The bill was afterwards amended by inserting a new section prior to it, so that in the bill as amended and finally passed that section stood the 18th. That section provided that outside railroads, foreign railroads, operating a railroad in this state, might lease other roads in this state. That provision was put in the bill at the suggestion and for the accommodation of the Boston & Maine, purely and simply. The Boston & Maine was then contending, as it had always contended, as shown by what I read to you last night from a report of Mr. Quincy — always contended that they were a foreign corporaton; and they were contending such to be the fact in a suit at

law at that very time pending; and of course they were not going to come into this Legislature and make an admission which would upset them and overthrow them in that suit. And they did not. They came here, and this was put in there specially for their accommodation, they claiming to be a foreign corporation. The pretence of Mr. Mellen that he quit his opposition in the last stages of the Colby Bill in the Legislature on account of the introduction of the 18th section by way of amendment is entirely untrue. We have demonstrated that fact to you. We have brought the secretary of state in here with the bill originally introduced into the House on the 15th of June, 1883, with the handwriting of Mr. Colby upon it, and that contains this 18th section *verbatim et literatim,* showing that there isn't one word of truth in that statement of Mr. Mellen, that is if he did make that statement. This man, Mr. Mellen, is a very voluble man, a very swift witness indeed, with a remarkably convenient memory; when he opens his mouth, why it is something like uncorking a champagne bottle, which effervesces all round. Why there isn't in his testimony—and you take his testimony as it is reported by the party who introduced him, and you can not find a single subject that he has spoken of twice but that he has told two stories; and if he has spoken of it three times he has told three. Why, he talks so fast I suppose that he cannot stop to tell his stories alike. When he was first questioned, for instance, about his opposition to the Colby bill, he said: "Yes, I was up here all summer fighting the Colby bill. We did not want it at all." That is where he left it. When he came to be re-examined by counsel on the other side who put him on the stand, Mr. Barnard, his attention was called to why it was that he opposed the Colby bill; and he went on and said that he opposed it until there was an amendment put in that answered all his purposes, and he was satisfied with the bill, rather leaving it as a matter of inference that he then went home. Then it was put to him on cross-examination again: "If you were satisfied with the Colby Bill after it was amended, why were you opposing it?" "Well, I did not know as it would pass." "Well, did you stop opposing the Colby bill when this amendment was made?" Well, he says they had got the thing so set up there,

got the thing so put up, that "I did not think it was of any use to fight it any more, so I went home about two weeks before it was passed." And so you find it. When he talks, for instance, about whether the Boston & Maine had taken possession of the railroads appertaining to the Boston & Lowell road, he says that they, the Boston & Lowell, retained everything in their own control. In another part of his book he said that everything that the Boston & Lowell has got is in the control of the Boston & Maine. Then if you look at what he says about the Massachusetts Central, you will find he speaks of it twice. The first time he was on the stand he said that the Massachusetts Central made two millions of bonds, secured on their road, and turned them over to the Boston & Lowell to go on and build the road — turned them over as collateral security for what the Boston & Lowell might expend. The last time he was on the stand he said that they made two millions of bonds, and the Boston & Lowell took them absolutely and were going to build the road, —and had already spent a million, and it would cost about five hundred thousand more, and they were going to make five hundred thousand out of the transaction. So you see there are two stories just as different as they can be. In one place he says that they took the bonds absolutely as the property of the Boston & Lowell road; and in the other place that they took them as collateral security. I have read his testimony over a number of times, and I cannot find anywhere that he has told the same story about any thing twice, where he has talked about it twice. Why, this matter of reduction of fares on the Boston, Concord & Montreal; when he was on the stand first he said no road, the Boston & Maine or any other road, could carry passengers at three cents a mile over the Boston, Concord & Montreal. He said they could do it and bankrupt the road; but it was a most foolish thing to do. But the last time he was on the stand he thought it would be a good thing; he said that the Boston & Maine would get fares down pretty soon to two cents a mile; and that the Boston & Lowell furnished trip tickets by which anybody could travel for three cents a mile. Before that he said it was poor policy to have fares so low that men could go to Boston and trade, and thus deprive the home trader

of business. He said that freights should be lowered, but fares should not be lowered. You take it just as they have printed it themselves, and if you don't find that he tells two stories, if you find a single subject that he has spoken of at different times that he has not told two different stories about, I would like to have you point it out. But then, perhaps, I am spending too much time upon this. I don't think this has anything to do with the Concord Railroad.

Now let us look at the history of the roads round about that have to do with the charter of the Boston & Maine. Take the charter of the Boston & Maine itself. It seems to have been chartered as the Andover & Wilmington road in 1833. It was a mere branch road from Wilmington to Andover. Then it crawled along up to the New Hampshire line, and was called something else, and finally a road was chartered in New Hampshire and a road was chartered in Maine, and the whole thing was joined together and called one road, by several acts in the different states. Well, it seems to have been a pretty safe and hard-fisted corporation in the old time. You recollect Mr. Quincy complained of it in 1859; he says it was a rich corporation, and it had big surpluses then, in 1859. It seems to have gone on in that way up to 1883, when it got a lease of the Eastern road, and that seems to have turned its head. It has gone to stock-watering and hurrah-boys ever since. Somebody or other made an everlasting pile of money, when that Eastern road was leased in 1883, and that somebody has got his appetite so whetted up by what he got then, that he has been going for something of the same kind ever since. (Laughter.)

Well, then, the Eastern Railroad. That had its origin at about the same time with the Boston & Maine, and was very nearly parallel to it between Boston and Portland. That seems to have got on considerably well up to about 1860, or somewhere along there, when it got to buying up all the cast-off roads, and finally it got into this habit of charging everything to construction. And when they had a great accident along in some of these years that cost them a million of money, they kept right along paying their dividends and charged the cost of that accident, about $1,000,000, right square to the construction account,

and kept right along paying their dividends up to somewhere near 1873. Then they had got their debt and stock up to somewhere about $20,000,000, and somebody looked into their affairs, and pronounced them bankrupt, although their stock was selling above par — a hundred and nine dollars, I think, was the market price of it. It went down — presto, change — as quick as you could say Jack Robinson. Probably the hard times of 1873 and 1874 had something to do with it, to prick the bubble. They were all ready to lease, but there wasn't anybody there ready to lease them, as there was to lease the Boston & Lowell when they got ready to "bust" (laughter), and so of course they went down. This stock went down so it was sold on the street and in the market for $2.50 a share, and it remained that way, or something in that way, up to 1883, when it was leased to the Boston & Maine, and to these gentlemen who had picked up that stock when it was $2.50 a share and $9.00 a share, and so on up, and the stock went up to $120 and $130 for a one hundred dollar share; and the gentlemen who held stock — of course I don't know who they were — made a pile of money, and it set them all agog. Then the next enterprise of these managers of the Boston & Maine was on the Worcester & Rochester. They commenced buying up the stock there; and that road was only paying a dividend of two or three per cent.; stock was selling for sixty cents a share or thereabouts; and by and by when they had got it all bought up sufficiently, they made a lease to the Boston & Maine. These same men who bought that stock were very close to the management, or in the management, of the Boston & Maine. They are the same men that are here now. And they made a lease to the Boston & Maine which caused that stock to go up to $125 or $135 per share, $100 shares. Well, of course these men made another pile of money. I don't know whether they are the same identical men that made the money in the Eastern deal or not, or some of them. But they made a pile of it.

Now something has been said about stock-watering. In this Worcester, Nashua & Rochester road the grand stock-watering was when they made that lease to the Boston & Maine, when they got a rental twice as large as the road was worth. That

was the grand stock-watering. It does not make any difference, with a railroad whether you water the stock by putting out new stock without anything being paid into the corporation, or whether you increase the indebtedness of the corporation upon which interest has got to be paid by the public. It does not make any difference, so far as the public is concerned, whether one or the other is fictitious. If either is in whole or part fictitious, then it is water, and a fraud on the public. That was the grand stock-watering, I say, when they got a result which doubled the value of the stock, and which put — I don't know the precise sum — one or two millions of dollars right into the pockets of the men who had bought up the stock and who owned the stock. And that is always the effect of stock-watering. The men that are near the throne, the men that are near the management, make the money and put it into their pockets.

Something has been said about the forty eight hundred shares which were in the treasury of the Worcester, Nashua & Rochester corporation at the time of this leasing, and which were divided among the stockholders; and the question has been raised whether or not that was a watering of stock. Well, it appears upon the testimony of Mr. Sinclair and from the testimony of Mr. Stoddard that there was an outstanding liability against the corporation for the stock, and to issue that stock without its being paid for and without discharging that outstanding liability was leaving two liabilities which represented the same thing to charge the public upon. And the issuing of that stock was pure water. It represented nothing that was in the corporation. But the gentlemen say that it did not add to the rental; that the rental was just the same. That may be; but it was water notwithstanding. It was a dish that the gentlemen cooked up then. If it did not add to the rental, it showed how much they thirsted after water. This much is certain; if the lease should be broken, or when the lease expires, they would then have a larger amount of stock upon which to charge dividends against the public.

In this connection they have read a letter from me. And I understand they have given me great credit for legal ability and for legal capacity. I don't know as I ever heard myself so

cracked up as these gentlemen have cracked me up on this subject on account of this letter. If there is anything in this letter that is contrary to what I have now said, why, gentlemen, I wish to take it back. (Laughter.) Now, let us look at the letter and see whether there is anything in the letter contrary to what I have now said. I have got the letter here as they have printed it, and I will read it:

"Littleton, N. H., February 1, 1886. I have read the within opinion, and agree with the legal conclusions on the facts *assumed.*" (Laughter.) Then all the things I am made responsible for by this letter is that the facts assumed in Mr. Olney's letter justify Mr. Olney's legal conclusion. Now let us look at that letter and see what he assumes, and see if it don't justify my legal conclusions.

"Boston, October 17, 1885.

"Charles A. Sinclair, president of the Worcester, Nashua & Rochester Railway Company:

"Dear Sir:—At your request I have given careful consideration of the right of the Worcester, Nashua & Rochester Company to deal with the 4805 shares of its capital stock now belonging to the company and standing in its name." Here follows what he states the facts to be: "I find the shares in question are fully paid, were acquired by the company under the consolidating statute and agreement in 1883, and are expressly authorized by the special statute of the Commonwealth of Massachusetts and of the state of New Hampshire." Here he says he finds that the stock is all paid — that is, that there is something paid into the corporation that represents the stock, and he finds that the issuing of the stock is fully authorized by a statute of Massachusetts and a statute of New Hampshire. On that state of facts, supposing that had been the state of facts, shares paid for, authorized by the Legislature, why, they ought to be issued, the stockholders ought to have them. But the facts are not so. According to Mr. Sinclair's testimony and according to the testimony of Mr. Stoddard, they were not paid for at all. (Applause.) There was an outstanding liability against the corporation for the pay for that stock, and consequently when that stock was issued without its being paid for there were two

things issued upon which the public was liable to pay interest and dividends, representing one and the same thing; that is, the stock was issued without anything in the corporation to represent it; and that is the definition of watered stock; when it is issued and nothing is put into the corporation to represent it. And that is what was done here.

Mr. Drew says that somebody — he don't give us the name of the gentleman — has been up into upper Coös and is going to build a road from North Stratford to Colebrook, and don't do it either to get votes for their measure here. Well, now, it seems to me that there have been some gentlemen that are interested in the Boston & Maine Railroad who went up there, and have set the Upper Coös Railroad in motion and are building it. And Mr. Drew says they did not do it to get votes. Now in Twynes' case, which is a leading case in the reports, it was settled if a contract started off with a declaration — "This contract is *bona fide,* and it is not the purpose of this contract to cheat anybody," — that such a declaration put into a contract is a badge of fraud, and is evidence to be considered as tending to show that the contract is not *bona fide,* and the purpose of it is to cheat somebody. Well, now, applying that same rule to the declaration of my Brother Drew, his statement would be evidence to prove that they did go up there to make some votes among you on these measures. Now, if they did not go up there for that purpose, to get some votes, what in this world did they go up there for? What in the world does the Boston & Maine want of a railroad there which don't connect with anybody or anything except the Grand Trunk Railway? and it is understood that the Grand Trunk Railway is hostile to the Canadian Pacific. They are rival and hostile railroads. And certainly the Grand Trunk Railway has no special friendship for the Boston & Maine. And why in the world are these gentlemen just at this time up there building a railroad for the Grand Trunk when they have so much business to attend to here, if it is not according to Twynes' case, to get some votes? But so far as that is concerned, I don't make any charges. Brother Drew says that they did not go there after votes, and I am not going to tell him he lies, or anything of the kind. (Laughter.)

Well, let us look a little at the Boston & Lowell Railroad. They started off in early days an honest road enough. They had two millions of capital, indebtedness and all. But they run it up, and have run it up now from two millions to fourteen millions. During Mr. Morey's and Mr. Mellen's administration, since 1883, they have increased it six millions of dollars. Bankrupt railroads, like the Massachusetts Central, the St. Johnsbury & Lake Champlain, and the Manchester & Keene, have been bought. They have been bought and paid for by issuing the stock and bonds of the Boston & Lowell Railroad. The course that I referred to last night was taken by Mr. Morey, paying five, five and a half, and six per cent. dividends, and it run the stock up. He got it blowed up in the market in that way. Well, the men who took the Boston & Lowell stock for St. Johnsbury & Lake Champlain stock and for the Massachusetts Central stock made a pile of money, just the same as the men who had the Eastern stock must have done. Well, when the Boston & Lowell got blowed up enough, got enough watered stock, they leased to the Boston & Maine; and they would not do it until then.

This lease is taken by the Boston & Maine to stop competition. Mr. Mellen told us that it was worth a hundred and fifty thousand dollars a year to stop competition; and that they saved a hundred and fifty thousand dollars, these two roads, running very near together, by running fewer trains. And then that they saved another sum of money in their terminals and in grade-crossings in Boston. And he went on and told how that the Boston & Maine could afford, just on that, to stop competition, to pay the rental on all this watered stock.

Now, instead of this watered stock to pay dividends on, there should have been no stock except what was *bona fide*. All that was saved by this union should have been saved for the public by a reduction of fares and freights; and no arrangements should have been made such as would never permit fares and freights to be materially reduced.

Now I call this lease an agreement for a partnership to sponge the public by watered stock and wiping out all competition. They have got it arranged in this lease that whenever they think

the public will bear any more taxation than what is necessary to pay the dividends on the stock, they will have some more stock. See how they have got it arranged. I read from page nine of the lease, article four:

"If, with the assent of the directors of the lessor, or after a decision of the railroad commissioners that the same are necessary and proper as provided in article seven hereof, the lessee shall make permanent additions to or improvements upon the demised premises, the lessor shall also issue stock or bonds to an amount sufficient to meet the cost thereof." In all the cases herein provided for in which stock or bonds are or are to be issued by the lessor, the lessor shall issue both or either class of securities as the lessee may request. * * * Stock so issued after the inception of this lease, shall from the time of such issue be deemed part of the lessor's capital stock, within the provisions of clause three of article one of this lease." So whenever they want to get up some new stock they can go to work and make some improvements.

Then further over, in article seven, it is provided: "The lessee shall have the right to make permanent additions to (that is, the Boston & Maine Railroad) and improvements upon the demised premises, which shall include any increase in track mileage, buildings, structures and bridges additional to those existing at the inception of this lease, and buildings, structures, and bridges replacing those existing at the inception of this lease, so far as the cost of such new buildings, structures, and bridges exceeds the cost of restoring such old buildings, structures and bridges to as good a condition as when new; such permanent additions and improvements shall, if assented to by the lessor, or decided by the railroad commissioners to be necessary and proper, be paid for by the lessor, so far as it has or can procure the power to do so in the manner provided in article four of this lease." This provides that if they want to get up some more stock they can go and build over an old bridge. So you see, gentlemen, that what I say is so.

Well, now, just as soon as the managers of the Boston & Maine get possession of the Boston & Lowell, they go for the Manchester & Lawrence. They don't wait; the war is carried

right straight ahead. And then they come here and go for us.

Now, gentlemen, how is this putting millions upon millions into speculators' pockets, by way of stock-watering railroads, going to affect the public? This water represents stock on which the public has got to pay dividends just as much as on the stock which represents an actual outlay of money. This water, costing nothing, represents just so many millions of dollars upon which dividends are to be wrung out of the sweat and blood of the toilers. The great object for the public is to keep the dividend-paying stock and the indebtedness of the corporation that bears interest just as small as possible, because the public have got to pay that; they have got to pay the dividends on the dividend-paying stock up to ten per cent., or they are liable to, and they have got to pay the interest on the indebtedness. Speculators want the dividend-paying stock and indebtedness watered as largely as possible, so as to be able to tax the public on the smallest actual investment of money, and to have the largest taxing power on the smallest investment of money. There is a positive and inevitable antagonism between the interests of the public and the interests of speculators; and the point where work for the public is to be done by a public corporation is to have the sum on which dividends are to be paid, and the indebtedness of the corporation, just as small as possible.

Now, I will call your attention on that point to the trunk roads of the Boston & Maine and the Concord railroads. The Boston & Maine is a hundred and fifteen miles long — a little more than three times as long as the Concord road — but it has a double track only about two thirds of the way; and I think I am very liberal when I say I will call the trunk road of the Boston & Maine, its depots and everything it has, worth three times as much as the trunk road of the Concord. Well, now, the Boston & Maine has got to represent this $7,000,000 of stock and $9,000,000 of permanent indebtedness, about $16,000,000 in the whole. The debt was between eight and nine millions in September, 1886, well on to nine millions, and I presume it is considerably ahead of nine millions now, I don't know; I think it would be pretty safe to call it nine millions now, but we will call it eight, and that would make fifteen millions. Well, now, you

multiply the stock of the Concord road, and it has no debt at all, one million and a half of stock by three, and that makes four millions and a half. There are four millions and a half as against seven millions and eight millions — fifteen millions in all. And if you were to take simply the seven millions of stock, without any reference to the debt of the Boston & Maine, and squeeze it down to four millions and a half, you would squeeze two millions and a half of water out of it in order to make it as solid as the Concord Railroad. (Laughter and applause.) And then in addition to that, they have got nine millions of dollars of indebtedness that is all water, as compared with the Concord Railroad. Now, gentlemen, take this for yourselves, if you are not satisfied with my comparison; look at it for yourselves. Well, besides the stock-watering business in this gathering together and putting everything under the control of one corporation, there are a good many other collateral considerations that come in right here in reference to such a hydra-headed monster as this Boston & Maine will be. You see it is going to have a great many heads. There is the centre head, the Boston & Maine, that has got a lot of roads; and then it has got the Eastern, which is another head, and it has got a lot of roads leased to it; and then it has got the Boston & Lowell, and that has got a lot of roads leased to it; and I believe that some of the roads they have got a lease of have got other roads leased to them — and so it multiplies, wheels within wheels, and wheels within those wheels, right along down. It is a perfect hydra-headed monster, and if they get up here into New Hampshire and get hold of the Concord road, the way they will stock-water that is very easy. Under the present state of the law they will go to work and lease all the bankrupt roads, whose stock they have bought, to the Concord road, and carry the stock of those bankrupt roads from nothing up to $100 or $150 per share.

Besides all that, I say that such a monopoly as this becomes a monopoly over all business, and over politics, over the Legislature, over the Governor, and over the court.

Now, the Boston & Maine, as I claim, has started on this stock-watering course by taking the Eastern road and the Boston & Lowell road, adding to its permanent indebtedness and adding

to its stock. Why, they seem willing, according to the statute procured in the state of Maine, which I read to you last night here, to multiply their stock to any extent.

Now are these managers — Mr. Jones, Mr. Armstrong, Mr. Cook, and Mr. Sinclair — carrying all this Manchester & Lawrence stock for nothing? Are they not getting some bonus more than the ten per cent. on the stock for which they have paid on an average $225, and for some of it considerably more? I apprehend that in some way or other it is not done at the private expense of those men. When the Boston & Maine have got water enough, and when they are ripe for leasing, it is a pretty fair presumption that they may lease too. Well, to whom? God only knows. But when they get ready they will probably lease to somebody. And it does really seem as if there was a great big corporation, a great monster of a corporation, that runs from the Atlantic to the Pacific, supported by the British government and by the Canadian government, that will perhaps be big enough to lease this terribly big concern after it has got watered up so much that it cannot stand alone. They will want to lease to somebody. And it looks as though that concern perhaps might be big enough by that time to do it; and perhaps by that time, notwithstanding what Mr. Mellen says, the government of Canada would permit them to do it. It is barely possible!

The Boston & Maine has all along since 1883 been the professed friend of the Concord road, and two years ago was here in force to protect the Concord road, and was the professed enemy of the Boston & Lowell. They sympathized in the Dow suit, the suit to break up the lease of the Northern road, and wanted the lease broken; professed right up to the time of the taking of the lease of the Boston & Lowell Railroad to be friendly.

Well, this rivals the Heathen Chinee that was said to excel exerybody for ways that were dark and tricks that were vain — I don't know as it would be proper to apply that to any railroad — I don't know but it would; — but it is not wonderful, I think, that the old fogy directors of the Concord Railroad, themselves speaking the truth and thinking other folks did also, were astounded when these things took place; and I don't wonder much

that our friend, Mr. Kimball, who is a very honest man, and as my Brother Cross says cannot talk very well — and he has not got any such gift of gab as Mr. Mellen has, that is certain — I don't wonder he was dazed when he saw these things all tumbling around in that sort of a way, was so far out of his head that it seems he went and offered a bonus of two hundred thousand dollars for Sinclair's option. Well, he was out of his head when he did it. And when he returned home and communed with his fellow directors, they put him right. I don't think there was anything very criminal about Mr. Kimball's conduct, considering the sudden attack that has been made upon him. When a fire takes place, oftentimes men will do the most foolish things in the world. Perhaps they will go after things of no account to save them, and let things of great value perish. Mr. Kimball acted on this occasion the same as a man might be supposed to act in case his house gets afire and is burning up before his face and eyes.

There was another thing pretty startling. They bought stock of George Byron Chandler and William P. Fowler, professed friends of the Concord road, men who went into this wonderful syndicate — they were in that — and they both sold out. That was rather calculated to add to Mr. Kimball's surprise and astonishment. In fact, in the history of nations, parties, and corporations, I don't believe you could find anything worse in positive duplicity and treachery than this selling out and buying up of the Manchester & Lawrence stock. And the parties that buy, who are they, and what does their buying mean? Why, they are the very same men that bought up the Worcester, Nashua & Rochester stock. They are the very same men that are here pushing this measure. And I think it means that this whole thing, from the leasing of the Eastern, is just one continuous course of policy pursued by the men who surround the management of the Boston & Maine, and whose main purpose is stock-jobbing. Well, now, who are they that sell? They are George Byron Chandler and William P. Fowler, the associates and professed confidants of the Concord Railroad. You can hardly conceive of anything more stealthy and treacherous than the work done by them. But, gentlemen, the Concord Railroad stands up brave-

ly, assaulted by traitors within and by this many-headed monster corporation without. The stockholders of the Concord Railroad could sell out and line their pockets with plunder, after the George Byron Chandler style, to these same speculators. And these same speculators, after fattening on the Worcester, Nashua & Rochester Railroad and on the Manchester & Lawrence, would fat six inches on the ribs when they get the Concord Railroad. They would put in millions of water — empty it right into it; and the Concord Railroad would stand as much water as the Boston & Lowell. But the stockholders of the Concord Railroad stand to their integrity. The Concord road remembers today that she is a public corporation. She is charged with other business than lining the pockets of her stockholders with money. She is charged with public duties; and in this, her hour of peril, she throws herself into the arms of the state to be disposed of, and by the terms of the Atherton bill offers herself for the public good. (Applause.) She offers herself, her road, her property, her franchise, everything, as a nucleus of a new New Hampshire corporation, to extend into your mountains and across the entire length of the state; to furnish railroad facilities for your lumber and for your water-power, to build up villages, make a home market for our farmers, and in every way develop the resources of the state.

We don't want our railroads absorbed and made merely a part of a great through system across the continent, which is managed in the interests of the through business and in total disregard of local business. We want to keep the control of our railroads; — not that we don't welcome the through business; we would receive it, and we would take it through in good shape and good style. Business is nowhere better done than over the Concord Railroad.

When the day comes that our railroads are devoted exclusively or mainly in the first instance to the accommodation of through business and in disregard of our local business, when that day comes to pass our villages will dry up, our factories be deserted, and our business will be gone.

Now, gentlemen, the animus of the Boston & Maine's managers is not only apparent from what I have been recounting to you,

from what they did with reference to the Eastern Railroad, what they did with reference to the Worcester, Nashua & Rochester, what they have done with reference to the Boston & Lowell, what they have done with reference to the Manchester & Lawrence, and from what they are doing here today, but I say it is manifest from the legislation of March 16, 1887, in Maine, which I read to you last night. They got there the right to buy all the railroads that are operated by the Eastern Railroad and by themselves in the states of New Hampshire and Massachusetts, and to issue the stock of their own corporation to pay for it. And, gentlemen, as has been proved here, they tried to get the same kind of legislation in Massachusetts; and they got beaten there. They would not trust them with it in Massachusetts. And now they come up here, and they put their foot in here. They don't dare to ask here for any such legislation as that. But they want to get their foot in here in a small way. They made a strike by the Hazen bill. If they cannot get that, they will want to get a little smaller piece. And if they cannot get that, they will get down to a very low figure undoubtedly. But they just want to get their foot in here; and if you give them an inch they will take an ell, and when they get fairly planted they will get such legislation as they got in Maine, and they will have the whole country in their control. And, gentlemen, there was never a time when the motto *Obsta principiis* — meet the enemy at the threshold; don't allow him to come an inch — applied more pertinently than it does here. (Applause.) Don't give him an inch. Don't let him come here at all. If you do you are not safe, not for a single moment.

We don't want our railroads in the hands of a foreign corporation which has no sympathy with our people. And they have now, for the first time in their history, claimed that they are a domestic corporation in New Hampshire, and they have come in here and made a prancing strange to look at. My brother Chase, and I don't know but some of the rest of my brothers, alluded to the fact, knowing that the Boston & Maine had always claimed itself to be a foreign corporation, knowing that it carefully guarded the Colby bill so it could take advantage of it as a foreign corporation, and knowing that it has always

called itself a foreign corporation — well, very much to brother Chase's surprise, he got immortalized for saying, as he thought, a very plain thing; and my brother Aldrich danced all over the hall here for one night, certainly, and it has been something that every man who has had anything to say has had something to cluck over, concerning what Mr. Chase said about the Boston & Maine being a foreign corporation. Well, now, I put it to them right here, and they can dance about me if they want to (laughter), that they have called themselves a foreign corporation from the beginning up to now; that they put into the Colby bill this clause by which they could take the benefit of the Colby bill as a foreign corporation, and they did it at the very time when they were defending a suit which my brother here, General Marston, whom you all know, brought against them. Mr. Drew and Mr. Aldrich called it, I believe, the case of *Betsey Horn* v. *The Boston & Maine Railroad.* Mr. Drew said it was either Hannah Horn or Hannah's sister, he didn't know which. But it turns out it was neither Hannah nor Susan, nor anything of the kind, but *Peter J. Horn* (laughter) v. *Boston & Maine Railroad.* This suit seems to have been entered in the Supreme Court at the April term in 1883, in Rockingham County — in 1883, mind you, gentlemen. This is the petition of the Boston & Maine Railroad, signed "Boston & Maine Railroad by George C. Lord, president," and in this petition they set up that they are a citizen of Massachusetts and not a citizen of New Hampshire, and that this suit was brought by Peter Horn, who was a citizen of New Hampshire, and hence that the two parties are citizens of different states, and asking that the suit be transferred to the Circuit Court of the United States. (Applause.) The question thus raised was considered by the Supreme Court of New Hampshire and the Circuit Court of the United States for the purposes of this case, and it was finally decided that although the Boston & Maine Railroad had its place of business in Massachusetts, and more than four fifths of its stockholders lived there, and although they had always claimed to be a citizen of Massachusetts, still, inasmuch as they had come to the state of New Hampshire and got a charter to run across the state of New Hampshire, they must be regarded as a citizen of New Hampshire so far as a

citizen of New Hampshire bringing a suit against them was concerned, and those courts held them up to their work. And I was not sorry for that either. I am glad Peter got his verdict, as he did afterwards; it was a just case, probably.

But the Boston & Maine did not see fit, after the Supreme Court of this state and the Circuit Court of the United States had decided that they were a citizen of this state, to go up to the Supreme Court of the United States. They then thought, perhaps, they had rather settle with Peter than to do that. But bye and bye, if they should have sufficient object, they would probably go up to the Supreme Court of the United States, and how they would settle the question God only knows. They have certainly settled a couple of cases within a short time. One is the *Penn. R. R.* v. *St. Louis & Terre Haute R. R.,* 118 U. S. 290; the other is *Goulett* v. *Louisville & Nashville R. R. Co.,* decided last May, and reported in the July number of the Albany Law Journal. In that case a suit was brought by a citizen of Tennessee against the Louisville & Nashville Railroad, and the motion was to transfer it to the United States court, on the ground that the Louisville & Nashville Railroad was a citizen of Kentucky alone and not a citizen of Tennessee. Now if the Boston & Maine Railroad can bring their case within the same state of facts upon which the court found that the Louisville & Nashville Railroad was not a citizen of Tennessee, why then they can succeed in maintaining what they have always claimed until this time, ever since their creation as a corporation. The Louisville & Nashville Railroad was chartered first in Kentucky, from Louisville to the Kentucky and Tennessee line, and then from that line to Nashville in Tennessee, about the centre of Tennessee, probably forty or fifty miles, by an act of incorporation passed by the state of Tennessee, and the whole thing was made one railroad, and stock in one was stock in the other. The court held in that case that the enterprise having started in Kentucky, and the act of incorporation in Tennessee being merely an extension or carrying out of the original plan, that the Louisville & Nashville Railroad was a citizen of Kentucky and not a citizen of Tennessee. And the same thing is held in the case of the St. Louis & Terra Haute Railroad, a part of that railroad being in Indiana and a part in Illinois.

Now, if ever the Boston & Maine should have a sufficient object, and think they can bring themselves within these cases, as I do not now see clearly why they may not — they originally started in Massachuestts and their subsequent chartering here in New Hampshire was a continuation of that line — I do not see very well why they may not bring themselves within the same rule that was considered in the case of the Louisville & Nashville Railroad. So what may happen hereafter nobody can tell. But it is perfectly manifest that the Boston & Maine Railroad is not going to allow any suits brought in New Hampshire against them to be tried by our courts here; for they have made provision in their lease that the Boston & Lowell, which is an outside corporation and a foreign corporation beyond all question, who have just transferred a case arising with the Boston, Concord & Montreal Railroad to the United States court, and they also have made provision in this very Hazen bill that the Boston & Lowell road shall take the lease of the Northern and the Boston, Concord & Montreal roads, and then they have a provision in their lease that the Boston & Lowell shall take a lease of a railroad whenever the Boston & Maine request them so to do. So you see, gentlemen, that they have got the bars all nicely put up. They have got the thing arranged so that whatever suits are brought here in New Hampshire against Boston & Maine interests in New Hampshire, the Boston & Lowell is the nominal party, and you have got to sue them, and they can carry you into the United States court. If they can't do it in one way, they are going to do it in another. They are hard fellows. (Laughter.) As the testimony is, when there is competition, when they want something, they are the nicest fellows in the world. Why, now, up here at this time, they are the nicest men you ever did see. You could not call for nicer men. But when they have got you in their power they will grind you, and they do not mean that their business shall be in the power of the New Hampshire courts. When my friend Marston sued them they squirmed awfully, but he held them. But they have fixed it now in another way, and when he comes to sue them again, he will have to sue the Boston & Lowell. (Laughter.) I don't know but the general will be enough for them, but I guess they would be too much for me. (Laughter.)

Well, this Boston & Maine Railroad is a corporation whose offices are all out of the state. You can't reach them by legal process if you want to see their books, or if you want the testimoney of one of their clerks; you will be compelled, in all your business of a legal nature with the railroads, to go down, out of the state to find out anything about them.

There is another thing I will mention right here. The Boston & Maine Railroad have increased their capital stock from $2,750,000 to $7,000,000, without any authority from the state of New Hampshire to make that increase. That corporation is today paying ten per cent. dividends upon $4,250,000 of its stock, without any authority from the state of New Hampshire so to do. The Boston & Maine Railroad is either a foreign corporation, or it holds $4,250,000 of its stock today without right, and in violation of law.

Gentlemen, we have presented a bill here, the Atherton bill. Mr. Briggs says it only requires a majority of the stockholders in case of a vote for union. Well, that is true, and we put it in that way, because that is the way business is ordinarily done in corporations. Whenever it is proper a railroad should act, or a corporation should act, a majority should rule, and we put it in the ordinary way. But if you think it should be two thirds, make it two thirds. That is not a matter to be talked about, any more than we wish to put it in the ordinary and common way.

And then Mr. Briggs says that the sixteenth section is narrow, because it prohibits the Boston & Maine from coming up here and leasing all the roads in the state. Well, gentlemen, that is the very thing we don't want. That is the very thing they are asking for in the Hazen bill. This provision in the Atherton bill is the very thing we need for the safety and protection of the state. That is why we put it in there. We don't want these men up here. We don't want the Boston & Maine up here leasing our roads.

Well, then, there is this old stock business in the Boston, Concord & Montreal road. They have made a great deal of hullabaloo about that. I don't know but they have talked more about that than they have about what Mr. Chase said about their being a foreign corporation. I believe Mr. Page of the belting works,

a business man, had to pay his respects to the syndicate, also he had to pay them to Mr. Chase, and they seem to have advertised that business pretty thoroughly. And inasmuch as there is not anything to it, and inasmuch as it is entirely without any foundation, nobody has paid very much attention to it so far, and they have been allowed to scream all they wanted to. And in fact it seems they know well enough there is nothing in it. They scream "Water!" and "Stock-jobbing!" on the principle of the old cry of "Stop, thief!" in order to divert the public attention from their own immense work of stock-jobbing and stock-watering.

The facts about this business are that twenty gentlemen bought out the stock which was originally owned by Mr. Lyon and Mr. Bell and Mr. Harlow — twenty of them bought the stock which was formerly owned by three or four, and they paid its market value for it; and they paid for it, not with the idea of making any speculation — there was not a man in that whole crowd, to my knowledge, who had any idea of a speculation — but the idea was they bought it at a price where it was safe to buy it, calculating upon the lease already made of the Boston, Concord & Montreal road that it was worth, if that lease was permitted to remain, just about what was paid for it, as near as they could calculate. No man would ever have bought it simply for the purpose of holding — that is, none of these men would — but they bought it on account of seeing in the Massachusetts Legislature a bill, which was afterwards passed and which became a law, and which was then pending in the Massachusetts Legislature when they bought the stock. And I would call your attention to that bill, chapter 278 of the Pamphlet Laws of the Legislature of Massachusetts, session of 1886. The title of the act is: "An act to authorize the Boston & Maine Corporation to unite and consolidate with certain railroads now leased or operated by it, to purchase the property, rights, and franchises of such railroads, and increase its capital stock therefor.

"Section 1. The Boston & Lowell Railroad corporation is hereby authorized to unite and consolidate with either or all of the following named railroad corporations now leased or operated in fact by it or its lessor, viz.: the Boston, Concord & Montreal Railroad, the Pemigewasset Valley Railroad, the Whitefield &

Jefferson Railroad, and the St. Johnsbury & Lake Champlain Railroad Company. * * *

"Section 2. The Boston & Lowell Railroad corporation may increase its capital stock to such an amount as may be necessary to carry into effect the provisions of this act, subject to the general laws of the commonwealth applicable to such increase, and may purchase, hold, use, and enjoy the stock, bonds, property, rights, and franchises of either or all of said corporations, leased or operated as aforesaid, and may sell or exchange its stock, bonds, or notes for the stock, bonds, property, rights, and franchises, and in payment of the liabilities of said corporations, leased or operated as aforesaid, upon such terms and conditions as may be agreed upon with the holders thereof."

Well, then, they saw this act pending in the Masaschusetts Legislature which afterward became a law. And they determined that they would buy this stock; and they did. Well, now, gentlemen, we thought we would fix that in the Atherton bill so that no mortal man, whatever his disposition was, would have the audacity to claim that the Atherton bill made any better provision for the old stock and new stock than what existed under the old state of things. And I submit that nobody for a single moment who will look at that act would entertain the idea that it would be as well for the old stock and the new stock as it would to let the road remain under the lease to the Boston & Lowell. But I find that it is charged here that the syndicate were not willing to take their rights as they would have been and as they existed under the old lease at the time they bought it, but that they want a provision for themselves in this Atherton bill.

I am authorized, I think, to speak for the Boston, Concord & Montreal, and I am authorized to speak also for the syndicate, except these gentlemen that have been bought away from us and are now owned by the Boston & Maine — Mr. George Byron Chandler and Mr. William P. Fowler. I am not authorized to speak for them. But for the others I am authorized to speak, and for the Boston, Concord & Montreal. And Mr. Eastman here has expressed this feeling, and says this Atherton bill ought to pass, or that the Boston, Concord & Montreal road ought not to

be permitted to unite with the Concord road even under the Colby bill, because if they do, this surplus, as he calls it, of the Concord road will all be absorbed and will go up on the Boston, Concord & Montreal where it don't belong; that it belongs down here on the Concord road.

Now, to put an end to all that sort of talk, I suggest here that so far as the syndicate is concerned, so far as the Boston, Concord & Montreal Railroad is concerned, you may strike out the latter part of section 12 and substitute this: That from the present time until the time that this lease would expire, which would be 1983, no money shall be paid in discharge of, or upon, the indebtedness of the Boston, Concord & Montreal road, or upon its stock, except a sum corresponding to the rental provided in that lease, which is three hundred thousand dollars. That will leave the Boston, Concord & Montreal road with nothing to be expended upon it as it exists now, except what it is entitled to under the existing lease; and all the money there is earned to go to the lessor, and the syndicate to get no dividends beyond what they would get if it should remain under the lease that was intended to be taken.

Well, I don't know but my Brother Drew will say that some of these syndicate fellows will be up there in 1983 and will demand ten per cent, dividend on their stock. (Applause.) Well, gentlemen, I will take the ground here that if any of those fellows get around and get up there in 1983 they ought to have it. (Laughter.) And I submit that to you.

Gentlemen, a word more and I will close. I see you are getting uneasy, and the hour is somewhat advanced. The times are critical; a mistake now cannot be remedied. There is Coös and the Upper Pemigewasset to be developed and made a very large producing section, or it is to remain, a primeval forest waving over it, and the home of wild beasts. The Concord Railroad has arrived at a stage where a new departure must be taken. It cannot remain any longer as it is. The state must take charge of it, or give it up. She must be united with the New Hampshire roads with which she connects, under the eye of the state, protected by the state, or this splendid property will be lost; it will go to speculators. The issue, gentlemen, is just that.

If the Atherton bill is not right, make it right. If there is anything that is wanting, make it perfect. But do something. Gentlemen of the committee, the issue is upon you. The responsibility is upon you. You cannot avoid it if you would. You must either stretch forth the strong arm of the state and take the Concord Railroad under its protection or refuse to do it. If you refuse, the Concord Railroad, assailed in front and in rear and at the sides, must be overwhelmed. Its surplus will be lost to the state, and will, by stock-watering, be put into the pockets of speculators, and then the public will be oppressed to pay dividends on the increased capital. Now, in the name of all we hold dear, in the name of what New Hampshire has been and what we hope she will continue to be, let us save this valuable property for the state. If there is anything wanting in the Atherton bill to make it perfect so it will secure the Concord road to be used for the benefit of the state, and not a dollar for stock-waterers, put it in. Will you let this splendid property be lost to the state? Will you give it up to hungry speculators who are indiscriminately swallowing both right and left, railroads that are wholly bankrupt, buying the worthless stock of such railroads and then issuing their own stock for it? They have got their eye on the Concord Railroad, and there never was a hungry wolf whose mouth watered for a fat morsel as these speculators long for the Concord Railroad. The issue is made up. It is upon us. It must be decided now, and you must decide it. The state must put forth its strong arms, and by a judicious law put the Concord Railroad beyond the reach of stock-waterers and speculators, or it is gone forever. What will you do with the Concord Railroad? It lies with you to say; and the decision you now make is irrevocable. You cannot hereafter reverse your decision and save it. No future legislation can save it. You must save it now. You must lock the door now, or the horse will be stolen. What will you do with the Concord Railroad? Will you hand it over to foreign speculators and put it beyond the control of the state to have its stock watered down so as to put millions into their pockets? It would not be so thin then as the Boston & Lowell stock. Do you ask how they will do it? Isn't it plain enough? These bankrupt roads they have been buying up, when

they get control of the Concord road they can make a lease of to the Concord road. It will disembowl the Concord road in a short time, and the surplus would all be in the pockets of these gentlemen who are hungering and thirsting. I repeat: What will you do with the Concord Railroad? Will you keep the Concord Railroad to use and develop the state, make new taxable property to aid and contribute to the prosperity of the state? Or will you allow it to pass beyond your control to make millionaires of foreign speculators who will tax you to pay dividends on watered stock? If you give it away they will not thank you for it, and they will afterward ride over you and abuse you.

I have spoken, perhaps earnestly, for I feel deeply. I have not intended to be unjust to anybody. I have spoken with malice to no one; and if I have done anybody injustice, I ask pardon. I believe I have stated the issue plainly. I have endeavored to do it truthfully and justly. And now, gentlemen, with the earnest hope that the wisdom of Almighty God may guide you in your deliberations and final decision, I commit the cause into your hands.

Hon. Harry Bingham

At 75 years.

CORRESPONDENCE.

FRANKLIN PIERCE.

A Letter Written by Harry Bingham to David Cross in the Winter of 1899–1900.*

Brother Cross: I received your letter a long time ago. I have attempted several times to reply, but have found myself so weak that I could not pursue the undertaking. I have now secured the aid of another hand and hope to complete some sort of a reply. I was very glad to hear from you and I congratulate you upon the great good fortune of enjoying a lusty old age without the scourge of its usual infirmities. Although I never had a son, yet I know enough about the pangs that are felt most keenly by the human heart and strike to its very core to realize somewhat the abiding grief and anguish that a fond parent must

*This letter, embodying Mr. Bingham's estimate of General Pierce as a lawyer, a citizen and a patriot, was written by Mr. Bingham to Judge Cross, at the latter's request, with reference to an address on Franklin Pierce as a lawyer, which Judge Cross delivered March 15, 1900, and which was published in Vol. 1 of the proceedings of the New Hampshire Bar Association, pp. 39–74. An extract from Mr. Bingham's letter is printed on pp. 70 and 71 of the same volume in the appendix to the address of Judge Cross.

Judge Cross, the oldest living graduate of Dartmouth and the oldest member of the New Hampshire bar, was in college two years with Mr. Bingham, completing his course in 1841, when Mr. Bingham entered his junior year. He served with him in the Legislature, as a member of the Judiciary Committee, and, although located in another county, frequently came in contact with him in the course of legal practice. Although differing politically, the two entertained for each other feelings of sincere regard and esteem. That Judge Cross, when preparing an address upon the late President Pierce, a distinguished Democratic leader, should have sought suggestions from Mr. Bingham, was naturally to have been expected.

feel over the loss of a promising and dutiful son. I condole sincerely with you on the loss of your son. To assuage sorrow for such a loss, philosophy may be summoned. It is an incident inseparable from the lot of humanity and must be endured. The consolations of religion, too, are open to those who seek it.

You request me to give you my estimate of Franklin Pierce as a lawyer, also any literature I may have illustrating what he was in that capacity. I have no literature especially treating of Pierce as a lawyer. I had no personal acquaintance with him before he was President and had only heard him make a motion in court once, and once or twice on the stump. All my ideas of Pierce as a lawyer are based on what I know of his reputation as such from the time that I began practice in 1846 to 1853. I always had the impression that he had a keen, discriminating, legal mind; that, although not overburdened with book learning, yet he always knew the law which applied to his case and applied it with accuracy. His reputation as a jury advocate, as it came to my ears, was of surpassing brilliancy. Before New Hampshire courts and juries he was remarkably successful. His popularity as a man was unbounded. The occasion when I heard the motion to which I have referred was in the July term, 1851, of the Supreme Court holden at Plymouth.

The high sheriff of Hillsborough County brought there on a writ of habeas corpus some prisoners bound over to the next grand jury term in that county on the charge of murder. General Pierce appeared for these prisoners and moved that they be admitted to bail. His manner was easy, dignified, graceful and courteous. He stated the grounds of his motion with great perspicuity and presented the evidence in support thereof in a way that must have given it all the weight to which it was entitled. He was treated by the court, then consisting of such men as Gilchrist, Woods and Bell, and by the members of the bar present, among whom were several of the most distinguished lawyers in the state, with deference and respect.

At one time I thought of preparing an address in regard to his character and standing as a man, a patriot and a statesman. In that view I had begun to fortify my impressions and recollection by reviewing the public records, newspapers and current

literature of his day. But before I had made much progress in this work and before I had formulated in my mind the groundwork of such an address, I was arrested from any further action in that direction by the utter breaking down of my health and the consequent physical and mental inability to do anything involving serious labor. In the feeble condition in which I have ever since remained I have not attempted to resume the undertaking, from the conviction that such a work ought either to be properly done or let alone altogether. Among the data that I examined were files of the *New Hampshire Patriot,* the "Life of Pierce" by Hawthorne, the "Life of Pierce" by Peabody, addresses on the same subject by Sidney Webster, "The Causes of the Civil War" by Lunt; also some recent histories of the United States, the names of whose authors I do not now recall. The matters that I proposed to discuss in my address were to be arranged somewhat in this order: First, his parentage and early training; second, his college life and college associates; third, his entry into political life, his election to the New Hampshire Legislature and his career in the House, and his congressional career terminating in 1842 by the resignation of his seat in the United States Senate; fourth, his very brilliant and successful practice of the law in the New Hampshire courts and his brief campaign in the Mexican War, covering the period from 1842 to his election as president; fifth, his presidential term, his subsequent life and death in 1869.

After his term as chief magistrate of the nation had expired and he had retired to private life, circumstances threw me quite often into his society and I became quite intimate with him and remained so all through the period of the Civil War and up to his death in 1869. I thus had an opportunity to study and know the man, to see the motives which were his inspiration and to learn the theories and principles that had guided his action through life in the discharge of duty, whether public or private. It is my deliberate judgment that I have never known a more clear-headed man than Franklin Pierce or one who surpassed him in patriotic devotion to his country and to his whole country, or one who had a stronger conviction of the paramount value of the American Union and that to maintain it the rights

of all sections as guaranteed by the Constitution must be respected. No man surpassed him in goodness of heart, and the consequent amiability of manner and general courtesy with which he always met his fellow citizens caused him to be universally beloved and respected. After his election to the presidency and after the expiration of his term of office and his retirement to private life, the hatred of the North to the peeculiar institution of the South and to the Constitution itself so far as it protected that institution, and the irritation and alienation of the South thereat grew in intensity, was fanned by the inflammatory appeals of extremists in both sections until a civil war of tremendous proportions broke out and desolated the land. The war terminated in the total subjugation of the South, the forcible abolition of slavery and the striking out of the Constitution everything that protected slavery and inserting instead thereof an article making slavery unlawful.

This was a practical revolution, changing the dominant sentiment of the country from what it had been from the foundation of the government to the breaking out of the Civil War, bringing all those who in the discharge of official duty during the strife preceding the war had sought to maintain peace and the Union by a strict adherence to the compromise on which the Constitution was based under a shadow, and making them unpopular. It was the misfortune of General Pierce that his term of the presidency happened during the strife that culminated in the Civil War.

His father, Gen. Benjamin Pierce, a Revolutionary hero, was a strong man and a distinguished citizen of New Hampshire. He enlisted in the army when scarcely eighteen years of age as a private, fought at Bunker Hill, and remained continuously in the service throughout the entire war, fought his way up to the rank of captain and the command of his company, which was disbanded at West Point in 1784. His attachment to his country was deep and he devotedly believed that in order to secure its prosperity and liberty the Union under the Constitution must be preserved. These ideas were always with him familiar topics of conversation in his family, in the society of his friends and at neighborhood gatherings.

Franklin Pierce could not have failed to be deeply impressed in his childhood and youth by the teachings of his father and we find that such impressions took deep root in his youth, and that his subsequent study, observation and experience planted them in his heart so firmly as to be inseparable from his very existence, with the conviction that the compromise of the Constitution must be fairly met and honestly maintained.

When he was elected to the presidency the whole country knew and believed that such were his views, and, relying upon that knowledge and belief, elected him with an overwhelming and unprecedented majority. He administered the government in accordance with his life-long principles as the people knew them to be when they elected him, although during his term the old strife of the sections, culminating in the Civil War, was renewed.

It availed Franklin Pierce nothing as against the unreasoning passions, animosities and prejudices engendered by the war that he had administered the government with honesty, fidelity and ability. The events that occurred in the life of Franklin Pierce and his acts have long since passed into history and he himself has lain in his grave for almost a generation. The time has arrived when it is practicable for all men to consider and judge of his life and character impartially and New Hampshire owes it to herself to do justice to the name and memory of her very brilliant son and the only one of her many eminent sons who has been elevated to the high position of chief magistrate of the nation.

Very respectfully your friend,

HARRY BINGHAM.

TO HON. HARRY BINGHAM.

AN ACROSTIC.

H is life, from manhood's days to ripened age,
A record of untiring industry supplies.
R enowned as Lawyer and in politics a "Sage,"
R elied upon as one who wisely will advise,
Y et weigh with zealous care all doubts that may arise.

B orn, bred and nurtured on rich New England soil,
I n Dartmouth's famous college halls, a graduate;
N ot daunted by life's countless evils and turmoils,
G rown brave and strong with zeal and force to advocate
H is views, resulting from much earnest thought and toil;
A nd, though powerless to retard time's onward flight,
M ay yet his valued counsel long sustain the right.

Nov., 1898. WILLIAM J. BELLOWS.*

Littleton, December 3, 1898.

Brother Bellows:

I have received from you an acrostic, addressed to me, so skillfully constructed that I am filled with admiration of your proficiency in such work. I am not a poet. If I were I could respond in the musical cadences of poetic numbers. As it is I must content myself with the use of common, everyday prose.

Amid the thickening shadows of the growing infirmities that precede the close of life, it is a great relief to be reminded of the

*William J. Bellows was a professional cotemporary, neighbor and friend of Mr. Bingham from the time when the latter first established himself in the town of Littleton, where Mr. Bellows had come to study law with his brother, Henry A. Bellows, subsequently chief justice of the Supreme Court, in 1842. He was a native of Rockingham, Vt., a son of Maj. Joseph Bellows, born July 3, 1817. He was educated in the schools of Bellows Falls, Vt., and Walpole, N. H., and at Waterford (Vt.) Academy, and had been a traveling salesman for a time before commencing the study of law. Upon his admission to the bar he engaged in partnership with his brother, which continued till the removal of the latter to Concord in 1850. He then practised alone till 1854, when he was associated with John Farr, the firm of Bellows & Farr continuing till 1859. In 1861 Mr. Bellows became postmaster of Littleton, holding the office seven years, and meanwhile was for several years the editor of *The People's Journal*, a Republican weekly paper which had been established in the town. During and after his term of office Mr. Bellows gave less attention to his profession, and finally engaged in mercantile business, becoming a member of the hardware firm of H. L. Tilton & Co., where he continued for some years, subsequently engaging in general trade with his son, William H. Bellows, although he had practically retired many years before his death, August 29, 1906. Mr. Bellows was a courteous gentleman and public spirited citizen, and was particularly interested in education. He had served many years as a member and president of the school board.

long ago, when the blood of youth danced in our veins and hopes were buoyant.

The pleasant memories associated with the days when you and I were young practitioners of the law, will remain with us while life lasts.

Your paper awakens recollections and presents those days to view. I recall your kind and generous ways and conduct, always gentlemanly, and always securing for you the friendship and respect of your associates.

Although I dare not flatter myself that the laudations of your paper are fairly due to me, yet I receive the same with infinite pleasure, as an offering from out of the goodness of your heart, in commemoration of our friendship, past and present, while both of us are tottering over the grave. I thank you sincerely and pray that your remaining days may be blest, and that with resignation and hope you may pass through the dark valley and enter with confidence the unknown hereafter.

Very truly your friend,

HARRY BINGHAM.

THE COURTS OF GRAFTON COUNTY FIFTY YEARS AGO.

ADDRESSED TO

HON. HARRY BINGHAM.

When first we practised in the courts, some fifty years ago,
The lawyers in their Sunday's best, were dressed from top to toe,
And when all were assembled, and the Sheriff cried "Hear ye,"
The court-room then presented a pleasant sight to see.

For then the Judge presiding, in calm dignity surveyed
The members of the bar, in many groups arrayed,
And visitors of either sex, intent his charge to hear,
A privilege freely granted and enjoyed every year.

The charge delivered, work began; the cases then were called,
And soon, on either side, the counsel were installed.
The plaintiffs and defendants each have their chosen men
To try their causes when the Judge should call them up again.

With lawyers such as then composed the Grafton County bar,
No wonder that the litigants felt well prepared for war,
For had they not selected from this distinguished list
A man whose marked ability but few could well resist?

Such men in fact as Quincy, Kittridge, Hibbard, Perley, Bell,
Bellows Senior, Goodall, Breton, Duncan and quite as well
The Binghams, Rands, and Carpenters, who each with practice large
For plaintiff or defendant, had many suits in charge.

Nor should there be omitted Blaisdell, Bellows Jr., Livermore,
Chapman, Dickey, Patterson, and Sloan, who always wore
Mismates, cast-off rubber shoes, that made his step so light
You heeded not his near approach, until he came in sight.

And Patterson, though never known to try a cause in court,
Yet never failed to make each term, a favorite resort,
Where his gentlemanly address, and bright eccentric ways
Made him a favorite with the bar, in those our early days.

How well we now remember the lawyers gathered there,
Comprising in the aggregate, a legal talent rare,
With character and zeal combined, a client's worthy cause
Was won by force of truth, sustained by righteous laws.

And now where are those men? Still echo answers where!
But *one* remains besides *ourselves*, of those assembled there.
That one, Arthur Livermore, whose nice scholastic ways
Made him a favorite socially, in those far "by-gone" days.

Yes, but we three in ripe old age, of all that worthy list,
Amid life's earthly scenes of joy and sorrow, still exist.
But, while our sojourn here shall be allowed to last,
Their memory yields a pleasant leaf from records of the past.

The rest whose names, conspicuous, in the archives of the state
How frequently recorded, 'twere hard to estimate,
Still in our remembrance, as friends we used to know,
When we first practised in the courts, some fifty years ago.

January 1, 1900.

Brother Bingham:

The accompanying verses, written by me some time since, though without poetic merit, served to bridge over some of my many leisure moments, while writing. In the hope they may do you a similar service in reading, by recalling incidents in our early practice which they may suggest, I send them to you with

my kind regards and a sincere wish that the New Year may bring you improved health to that degree that the ills incident to ripening age, may be easily borne.

Yours sincerely,

WILLIAM J. BELLOWS.

HARRY BINGHAM TO WILLIAM J. BELLOWS.

Littleton, April 25, 1900.

Brother Bellows:

I received your New Year's communication and read it with much pleasure. I have been delayed until this late hour from acknowledging your favor, so elegantly given, by the irresistible reluctance that overcomes me whenever I propose to do anything involving mental or physical work. I have all along been flattered by the delusion that tomorrow I can do it better. But you are an old man and I do not need to make excuses; you know how it is yourself.

The good wishes which you express in my behalf I most heartily reciprocate and I hope that the burden of age will continue in the future, as in the past, to rest lightly on your shoulders.

You seem inclined to express what you have to say, in verse, and I congratulate you upon your good fortune in preserving the ability to gratify that inclination. It would be hard to select a better theme for story or song, than the bar of Grafton County as it was

"When first we practised in the courts some fifty years ago."

I think you have done the subject justice, touching as you have briefly the peculiar merit of each.

It seems almost as if the old times were coming again and scenes that have been enacted are about to be re-enacted. You and I, and for that matter, I suppose, all aged people, live in the past rather than the present.

There is little satisfaction in watching and studying the generations now on the stage of action. We see them repeating the

follies of our youth and the mistakes of our maturer years. We are surprised at the credulity and stupidity that repeats what we have tried and know to be utter foolishness, and we are disgusted with the ugliness and false coloring, and the deceptive names that have been substituted instead of the plain natural way in which they were presented in our times.

Humanity repeats itself. Experience is a mighty slow teacher, and the wisdom it teaches generally comes too late.

The present and the events it holds in its bosom, whether of great or small importance, seem like the passing phantoms of a dream and will soon be obliterated from the memory.

Scenes of childhood, while sitting in our mother's lap or sporting in thoughtless joyousness, unthought of for years, now come before the mind's eye in vivid pictures of lifelike reality. The work of our maturer years, the hopes and ambitions in which we once indulged, all lie behind us in a confused mass. The friends that we loved, our associates and our competitors, are mostly in their graves, and the few who remain are like ourselves, tottering over their graves and curious about the great beyond.

Looking back upon our past, I can see nothing more worthy of contemplation than the Grafton County Bar, as it was fifty years ago. There were Wilcox, Quincy, Bellows, Duncan, Blaisdell, Hibbard, Livermore and their associates. They were scholars, lawyers, and gentlemen. There was sport in those days like unto which I can now see nothing.

I have now been prosy and dull long enough probably to tire you all out, and wishing you great peace and happiness, I will close,

Very sincerely yours,

HARRY BINGHAM.

APPRECIATION.

[The following words of appreciation have been contributed for presentation in this volume by men most qualified to discuss the character and abilities of Mr. Bingham, aside from those who were heard at the bar meeting when the eulogies in his honor, elsewhere presented, were delivered. Judge Smith is the only survivor of those who sat upon the Supreme bench when Mr. Bingham was at the zenith of his professional career. Mr. Parker was his political and professional associate for a generation. Mr. Chandler was his leading political antagonist, in and out of the Legislature, and had ample occasion to know and respect his ability and resources. Mr. Samuel C. Eastman was a legislative reporter during the stormy sessions in war and "reconstruction" times, when Mr. Bingham was a central figure on the minority side in the House. Attorney-General Edwin G. Eastman studied law in the "North Country" with the late Judge A. P. Carpenter, who was Mr. Bingham's intimate associate, and also well knows the respect entertained for his great abilities by the profession throughout the state.]

By Hon. Jeremiah Smith, LL. D.

When Harry Bingham died a great and commanding figure passed from the New Hampshire bar. His was a distinct personality, a man strong in brain and strong in body; of positive views, and with a courage which enabled him to stand, if need be, alone.

For many years an acknowledged leader of the bar, he was not a mere lawyer. He believed that a man could not be fit for the highest class of practice if his reading was confined to law books. He once advised a student in his office to drop his law books and make a study of English history, as a necessary preparation for the study of law. Mr. Bingham had a very clear idea of the fundamental propositions of law, which are the starting points for all discussion of specific legal questions. And his powerful and logical mind enabled him to work out sound con-

clusions from his premises. His mental processes were not rapid; but they were thorough.

A stranger might sometimes have seen Mr. Bingham engaged in a jury trial without suspecting the latent power of the man. He was always slow, and occasionally heavy and dull. But when he was thoroughly roused a spectator felt that he was witnessing a great man in action. There was in him a total absence of the arts and tricks of a certain class of jury lawyers. He won his cases by main strength; by the sheer force of a powerful intellect, not by stratagem. In this respect he closely resembled the late Daniel M. Christie of Dover. Both were great lawyers, and both were wholly devoid of tact. In the difficult art of cross-examination, Mr. Bingham was not a proficient. He generally lost more than he made. I believe that some of his opponents, who knew his uniform method, used to refrain from bringing out vital testimony on direct examination with the belief that "Harry" would be certain to put the questions on cross-examination, when answers adverse to the cross-examiner would be sure to attract attention. But when Mr. Bingham came to the closing argument, he could deal sledge-hammer blows which indelibly impressed his views upon the jury.

Some of Mr. Bingham's best things in court were said off-hand. He was once arguing against the reliability of a witness named P. W. Hastings. He applied to him all the objurgatory epithets in the English language, and then came to a dead halt because there was nothing left to be said by way of climax. "He is false, he is untrustworthy, he is perjured, he is——" then after a long pause he pulled himself together, and added, "After all, gentlemen of the jury, no words describe him better than the words *P. W. Hastings.*" [No italics can express the scorn and contempt with which the name was pronounced.]

No man of his time was capable of making a better argument at the law term. But Mr. Bingham often made the then common mistake of omitting special and careful preparation. Hence he did not come up to the uniformly high level of Alonzo P. Carpenter, who, in his day, was altogether the best arguer of cases at the law term. But when Mr. Bingham put forth all his power he came fully up to the Carpenter standard. Such an

instance was the argument in *Clark* v. *Whitaker,* 50 N. H. 476, heard at Haverhill in January, 1871. The amount in dispute was small, but the case raised an important question of commercial law. Mr. Bingham first stated with great exactness the elementary legal proposition involved; and then worked out the logical conclusions from the premises. His argument, which probably did not occupy more than ten minutes, had all the clearness and cogency of a geometrical demonstration.

The most thrilling language I ever listened to from Mr. Bingham was at the conclusion of his argument before the law court in December, 1886, in the great case of *Dow* v. *Northern R. R.,* 67 N. H. 1. The types can here reproduce only the words, but not the vehement personality of the speaker. No one who heard them uttered can have forgotten the effect produced.

The counsel for the defence had made what Mr. Bingham regarded as an unwarrantable attack upon his client, Mr. Dow. At the close of the argument Mr. Bingham referred to this attack, and said (I quote from memory): "There was a great battle before the Legislature as to the enactment of the statute now under consideration. My client, Captain Dow, made a strong fight against it, but a powerful combination carried it through. Captain Dow is present here today in this court room, a reputable citizen of New Hampshire. But I ask you where is now the man who was the head and front of the combination which prevailed upon the Legislature to enact the statute? Where is ——— ——— ———? (giving the name in full). A fugitive from justice, an exile in foreign lands."

From an early day, Harry Bingham was universally styled "Judge Bingham." Distinguished as he was at the bar, it was probably the general feeling in the profession that the more appropriate place for him was the bench. Had he gone upon the bench, he would, in those times, have been compelled to sit at trial terms as well as at law terms. As a trial judge I never thought that he would have been the equal of his brother George, a man of quicker perceptions and greater practical sagacity. But at the law term, in important cases, he would sometimes have delivered opinions worthy to be put in the same class with those of Richardson, Parker, Perley, Doe and Carpenter. He

had in him the making of a statesman, and would have proved especially strong on questions of constitutional law.

To a newly appointed judge, Mr. Bingham was sometimes a troublesome element. He wanted no special favors; but he was obviously apprehensive that he would not receive fair treatment. But after he once became satisfied that the judge was absolutely impartial, and that drastic treatment meted out to him was applied alike to everybody else, he was contented with his lot. He became in at least one instance a warm friend, instead of a hostile critic.

It is impossible to think of Mr. Bingham without recalling his intimate friend, Gen. Gilman Marston. Both were blunt in manner, and exceedingly plain of speech. As to each "his bark was worse than his bite." Both sometimes unnecessarily made enemies, but both had hosts of friends. Both were eminent lawyers, and both were bachelors. Although both were ardent politicians, entertaining diametrically opposite views on national politics, they were close friends; and the two men combined had a powerful influence in preventing undesirable legislation when they served together at Concord.

"I hate that man with a pure heart fervently," was what an old New Hampshire lawyer once said of a professional brother. There were men towards whom Mr. Bingham might have said the same. But he was not only strong in his enmities, he was also strong in his friendships. Beneath his rugged exterior there was a warm heart. "The softening influences of age discover traits of character which the aggressiveness of manhood have obscured." He perceptibly mellowed in later years. To his infinite credit it can be said that in those years those who were nearest to him and who knew him best were those who loved him most. When at last the strong man was stricken by fatal disease, he did not murmur or repine, but instead expressed his thankfulness for the good health which he had enjoyed so long.

It may be permitted to a life-long political opponent to express his admiration of Mr. Bingham's rigid consistency in adhering to what he believed to be correct political principles. He never once thought of forsaking principles for the sake of political

distinction, which he could thus at any moment have obtained. But when principle required the sacrifice, he did not hesitate to part company with former friends. When, near the close of his life, a majority of his party adopted views which he believed to be opposed to party tradition and essentially wrong, he, "the noblest Roman of them all," stated his grounds of dissent, and left the convention.

By Hon. Hosea W. Parker.

Nearly all the men in New Hampshire who were contemporaries of Harry Bingham for a long series of years have passed on to "that undiscovered country from whose bourne no traveller returns." While there are many now living who knew and admired him, they belong to a new generation and view life from a different standpoint. We live in an age when great changes are constantly going on and the estimate we place upon men is subject to this law of change.

The writer was intimately acquainted with Mr. Bingham for more than forty years, and was associated with him in such a way as to learn many of his characteristics of mind and heart. That he was no ordinary man all who ever knew him will admit. That he was great in the highest and best sense of that term, those who knew him best sincerely believe. He was endowed by nature with those qualities which at once placed him upon a higher plane of thought and action than that of most public men. He seemed to stand out almost alone in his active life, like some giant oak on the hillside, and belonged to that class of men represented by Webster, Gladstone and some of the men of their time.

Had Harry Bingham been differently situated, so that he could have taken an active part in the councils of the nation, he would have stood in the front rank of American statesmen. Since the days of Webster, Mason and Woodbury, New Hampshire has not produced his equal in all that stands for strength of character and real greatness. He was thoroughly conversant with the political history of our country, and had studied and

mastered its fundamental principles. There never has been a time in the history of the Republic when the services of such men were so much demanded in national affairs, as they are today. When we see the fundamental principles of the government, as set forth in the Federal Constitution, and as interpreted by the early statesmen, gradually undermined by partisans and politicians of the present day, for the purpose of securing party ends, the true patriot turns instinctively to the wise counsels of such men as Harry Bingham.

In politics he was a Democrat, but in no narrow or mere partisan sense. He was a Democrat in the highest and best sense, in all that this term implies. Constituted as he was, it would have been impossible for him to have been otherwise. He believed in that kind of Democracy which Jefferson taught, and which fashioned and moulded the Republic in its early days, in contra-distinction to the teachings of Hamilton and those of his school of politics. It would be better to say that he was a true American, and believed that this is a government "of the people, for the people, and by the people."

It is to be regretted that a man of such commanding ability could not have occupied a seat in the United States Senate, or on the bench of the Supreme Court of the United States, where his great ability could have had full scope, for he was well qualified for either of these positions, and without doubt he would have reflected great honor upon the state and nation had he occupied either.

> "Sage he stood,
> With Atlantean shoulders fit to bear
> The weight of mightiest monarchies, his look
> Drew audience and attention still as night
> Or summer's noontide air."

By force of circumstances his life-work was confined to New Hampshire, but he was well equipped for a much broader field of action. If partisanship could have been laid aside and he could have occupied the place that his abilities so well qualified him to fill, he could and would have rendered a service to the state which has never been surpassed.

It has been said that "Republics are ungrateful." However

this may be, it is often the case that those who by natural endowment and by education are best fitted to occupy responsible positions in state and nation are passed by, and others less qualified are pushed to the front. Mr. Bingham was modest and never made any effort to place himself in the front rank, or supplant any of his associates. He was not only the best type of an American patriot, but he was a great lawyer. To be a great lawyer, and all that this implies, a man must have high ideals, a keen sense of justice, and an unswerving honesty of purpose. Harry Bingham had all these qualities in a remarkable degree. He was thoroughly honest and was possessed of a clear and strong sense of right. His best thought and highest ambition was to secure justice between man and man. Without those qualities, whatever may be the apparent success of a lawyer, he is not the kind who will leave a lasting impression upon the minds and hearts of his fellowmen. But Judge Bingham possessed all of these attributes in a very remarkable degree, and in addition was thoroughly grounded in the principles of common law, supplemented by extensive and varied reading and study. When he stated a legal principle in court, it carried with it all the force of a demonstration. It was stated in such a manner that its truth was apparent. Its force did not seem to be derived from the books, so much as from the man himself. He was a lawyer by nature and intuition, with the added force of sound learning. It was natural that such a man should choose a judicial career. Although he was a lawyer, he was not always hemmed in by the demands of his profession. No lawyer was more thorough in all of his investigations of legal principles and the New Hampshire law reports have been enriched by his briefs and his interpretations of the law. He had the utmost confidence in and respect for the principles of the common law. At times he might have been too conservative in his interpretation of legal principles.

He had little respect for some of the modern methods of lawyers and their practice. There was no commercialism in the practice of the law by Mr. Bingham, and he was above all the arts and intrigues which too often enter into the practice of the law by many lawyers. His whole life was moulded in a differ-

ent school of thought and action. It was impossible for him to move in a narrow channel. He needed the broad ocean upon which to sail.

Such a lawyer must be a power in the community where he resides and his influence extends far and wide. Not only the rights of individuals, but the perpetuity of the government itself depend upon the administration of the law by this class of men. Lawyers have been and are today important factors in governmental affairs in state and nation. They are the conservators of the public peace, and stand for the welfare of the people. The legal abilities of Harry Bingham have been recognized not only by the bar, but by the court. His life and character have left a lasting impression throughout the state, and his example is worthy of imitation by all those who have chosen the law as their profession.

By Hon. William E. Chandler.

Mr. Bingham was unquestionably a great man intellectually. He had a wonderful faculty for accurate reasoning on difficult questions like that of Lord Mansfield, Chief Justice Marshall, Benjamin R. Curtis, Caleb Cushing, Jeremiah S. Black, John G. Carlisle, Ira Perley, Gilman Marston and other jurists of that kind — direct, unornate, effective, unsurpassable by the powers of any other class of English or American lawyers. If he had lived in a larger commonwealth and therefore had taken part in the discussion of more important questions than any in which he engaged in New Hampshire, he would have become renowned throughout the nation.

Moreover, he was an upright and true man in every relation of life. It is impossible to conceive of him as evasive or deceitful on any occasion, and he never believed that such conduct was called for by his duty to any client. So he was brave and strong in each event of life. Among the powerful men whom I have carefully observed or directly encountered, Mr. Bingham stands as one of the greatest, and he should be recorded on the list of New Hampshire's noblest and most to be revered citizens.

Proof of his intellectual greatness may be found in the extraordinary attainments fully recognized as lawyers of his brothers, Judge George A. Bingham of New Hampshire and Judge Edward F. Bingham of Ohio, chief justice of the District of Columbia.

My acquaintance with Mr. Bingham began shortly before our meeting in the New Hampshire Legislature in the war times of 1862, 1863, and 1864. Like so many public men, he believed that not only should the compromises of the Constitution as to slavery, be fully and properly obeyed, but that there should be no effort on the part of the opponents of slavery to alter the Constitution. So believing and so obeying, he refused to change his political attitude as to slavery even after the repeal of the Missouri Compromise and the beginning of the attempts to force slavery into Kansas and thus increase the number of slave states. Remaining thus unchanged, he fought as his strong nature impelled him, in company with other notable northern men against the new policy adopted by Mr. Lincoln and the Republican leaders — that of destroying slavery as well as saving the Union in the War of Secession, began by the South at Fort Sumter. In this course he and most of his associates were guided by their convictions of duty. It was my privilege in the affairs of New Hampshire to oppose to the uttermost their pleas and efforts, while I always regarded them as sincere and honest and unselfish in their political action. My personal relations and friendship were never impaired as to Harry Bingham and John G. Sinclair by our political differences.

By Hon. Samuel C. Eastman.

Harry Bingham was not a young man when he was first elected to represent Littleton in the New Hampshire House of Representatives. His mind was mature and he was already a leader of the bar in his county. He was a member of the minority, but was at once accorded by common consent the position of leader of his party.

So far as his public appearance on the floor was concerned, he was an antagonist who could not be neglected and whom it was difficult to overcome. He was never agile, and apparently not very alert, yet nothing escaped his attention. He was always in his seat during the sessions. When anything came up that he felt should be opposed or defended, he could be depended on to rise to the emergency. He never spoke rapidly, but on the other hand, he wasted few words. He seemed at first as if he was thinking out aloud and finding his way through the matter he was discussing. As he went on, it was apparent that he had either laid out his plan before he rose, or that a logical order was the natural course of his mind. He had no occasion to turn back at any time, but his points were made, one by one, in such a way that his hearers could hardly fail to understand them, and could not forget his argument.

As a legislator, on all matters that were not political, he was anxious to do what he thought was for the welfare of the state. A project that did not seem to him just, presented by a political friend, had no better chance of success than if it came from an adversary. On political questions, he was an unswerving defender of the principles of the Democratic party. Here he might be said to have been a zealous and even a bitter partisan. At the time of the attempt to veto the soldiers' voting bill, when Mr. Sinclair, a more subtile if not so strong a man as Mr. Bingham, brought in the message of Governor Gilmore, because Mr. Tenny, the secretary of state, could not be found, and William E. Chandler, the speaker, refused to receive it, and a session of earnest protest on the part of the Democrats, verging at times on violence, but fortunately escaping it, ensued, he took a vigorous part, joining with his powerful bass voice in the cries of "revolution! revolution!"

When he ceased to represent Littleton, a power for good was taken away from the legislative hall.

By Hon. Edwin G. Eastman.

As to the character and ability of the late Hon. Harry Bingham, I can add very little to what has, undoubtedly, been so well and truly said by others. I remember very well the first time I saw him. It was on a cold day in December, 1862, when, with my father, I stopped at the hotel at Haverhill Corner. Judge Bingham was in the hotel office at the time, engaged in the discussion of the political affairs of the day, with others who were sitting about the hotel waiting for dinner. I do not recall much that was said, probably did not understand the full scope of the conversation; but the question under consideration seemed to relate to the power of the states, and a man present undertook to relate what was done by the original thirteen states; whereupon Mr. Bingham, good naturedly, told him that he knew nothing about it, and challenged the speaker to name the original thirteen states. The man then replied that he didn't know much, but he was sure of one thing, and that was that Vermont (Mr. Bingham's native state) was not one of them; that in those days Vermont was one of the back districts of New York.

I did not see him again until I went to Grafton County to read law. In those days I saw him frequently in court and sometimes at the office of Judge Carpenter. I was impressed with his accurate knowledge of the elementary principles of the common law and his ability to apply those principles in a correct, powerful and accurate way to the cases which he was called upon to consider. In vigor of intellect, no man at the New Hampshire bar, since my acquaintance with it, has surpassed him. In politics he was affiliated with the minority party, but no fair minded man will say that if he had been placed in positions which his great ability and character qualified him to fill, he would not have acted fairly, honestly and for the best interests of his state and nation.

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